



# CITY OF MANCHESTER

## PLANNING AND COMMUNITY DEVELOPMENT

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### MANCHESTER ZONING BOARD OF ADJUSTMENT PUBLIC HEARING / BUSINESS MEETING MINUTES Thursday, April 14, 2022– 6:00 p.m.

**Board Members Present:** Chairman Robert Breault, Vice Chairman Michael Simoneau

**Alternates Present:** Guy Guerra, Greg Powers

**Excused:** Anne Ketterer, Jim Roy, Joe Prieto

**City Staff Present:** Michael Landry, Deputy Director of Building Regulations  
Sheila McCarran, Administrative Assistant II

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**I. The Chairman calls the meeting to order and introduces the Zoning Board Members and City Staff.**

**II. PUBLIC HEARING:**

*(Postponed from 3/10/2022 ZBA Meeting)*

**1. ZBA2022-022  
255 Orange Street, R-2 Zoning District, Ward 2**

Claire Provencher proposes to maintain the keeping of four domesticated chickens on a 10,430 square foot lot where at least a half-acre or 21,780 SF is required and maintain a hen house with a fenced in coop area 4' from the property line where 20' is required and seeks a variance from sections **8.30(a)** The Keeping of Domesticated Chickens and **8.30(d)** Hen Houses and Fenced Areas Required, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through February 22, 2022.

Greg Powers recused himself from this case.

Claire Provencher said she lives at 255 Orange Street. She said she grew up in Manchester and was the class of 1987 at West High School and is a retired school teacher who taught in the Manchester School District for 25 years. She said she bought this house in 2011 which is the first home she has owned and the only home she plans to own and live in forever because

she loves Manchester. She said four years ago she got chickens and she would like to keep her four hens in her backyard. They are quiet and make no sound at night. She said she keeps it very clean and as you can see in her application documents, there was a rat problem that arose from an un-kept coop on a property right behind her on Pearl Street, which was cited in August of last year. Their hens were removed but their coop is still there. Their coop is built actually right up against her fence. She said she knows that is where the rats came from because in her application, she had pictures of that and there are tunnels under the fence where the rats came into her property. She paid JP Pest to come and survey and they have been monitoring and placing six bait stations and the rat problem is gone. She said the neighbors don't have their chickens anymore, but the coop is still present, so she believes that any problem that there might have been in the neighborhood was coming from that property as opposed to hers.

Chairman Breault turned the hearing over to the public and invited those in favor of this application to come forward.

**Kim Ignaszewski Hughes** said she lives at 17 Oak street on the corner of Oak and Orange. She said she is abutting Ms. Provencher's house right next door. Her coop is built against her carriage house. There is nobody that lives in her carriage house, it is just full of antiques, but anyway, when she built the coop and it was placed there for the hens, she has no problem with the hens. They are very clean and very friendly and they give great eggs.

**Mark Larochelle** said he lives at 265 Myrtle Street which is across street, one street over from Ms. Provencher's place where she wants to maintain the chickens and he is speaking in favor. He said he did take a walk over there this week and checked it all out, so she is not getting a free pass here. It is all nice and clean and he doesn't believe it is actually built off the carriage house. He believes it about 4' away from the carriage house that Mrs. Hughes speaking about. He said it is well organized and looks like a really good setup over there and is a nice design as well. He thought it looked very good and he is speaking in favor of it.

**Craig St. Pierre** of 278 Myrtle Street said he was two houses over from Ms. Provencher. He said Claire is someone that he knows very well and he has helped her take care of the chickens in her absence. He said the coops and the yard are well kept. He said the Ordinance, as the Board knows, is very restrictive and there is not many houses that have that one acre that they would need for the first hen. He said he thinks it is really something that is probably outdated for folks that do responsibly take care of their chickens. He said hers are in good shape but we do have other people, as she had mentioned on Pearl Street and there is another one that does have them nearby. It is not a problem for anyone in the neighborhood and he thinks this line of folks here can demonstrate that for everybody. He said he is very much in favor of Claire keeping these and continuing to do what she does and the benefit of urban farming and sustainability that he thinks the City needs to consider moving forward.

**Lucia Carlisle** of 35 Oak Street said she has lived there for forty plus years and has known Claire for more than ten years. She said she is a wonderful neighbor and she has been to a number of her events in her backyard and everything is clean. Her chickens are her pets, her children. They are wonderful to have and like Kim said, they give very good eggs. She said she supports this application.

**Charles Scott** said he lives at 252 Orange Street which is directly across the street from Claire. He wants to say that Claire is a great neighbor and has a great setup and a beautiful home with the yard and beautiful chickens. He said he and his wife have no objections and they are totally in favor of Claire on this one.

**Molly Lunn Owen** of 313 Walnut Street said she is here to speak in support of this application. She said she also lives in ward 2 so she is sort of a neighbor and she grew up with chickens and she can speak to the mental health benefits of having backyard chickens, especially at a time when our neighbors have been hurt by the pandemic and the isolation that resulted in that. She said she is also a member of the Planning Board and she would say that backyard chickens add to the vibrancy of communities, so she would like to speak in favor of this application for that reason as well.

The Chairman invited those in opposition to this application to come forward.

**Ben Heroux** said he is an abutter at 1 Oak Street and he is the one that initiated the complaint to the Building Department. He said witnessing rats and odors in 2021 was his primary concern. He just wanted to point out that the building construction negative pressure homes, old blew construction homes, when you open your windows and you smell odor, it is not healthy. He said he thinks a lot of the facts that have been in writing by Ms. Provencher in her application and other people's testimony, prove his statements that his letter documented to the Board on March 3<sup>rd</sup>, which he hopes the Board has time to consider that and he has nothing but the Ordinance to rely on. He is asking the Board to vote in opposition to this application.

Chairman Breault invited those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Michael Landry said there were two additional emails in favor and then Mr. Heroux's letter. He asked the Board Members if they all had that letter in their packets. Chairman Breault said they did have a copy of the letter. Mr. Landry said he goes into a lot more detail than what he just did. He said he would quickly go through the emails and he would touch on some of the things that Mr. Heroux didn't. He said the first email was from Coleby LaFleur and he read it into record.

*We reside at 261 Orange St and are the neighbors to Claire at 255 Orange Sreet. We are writing in to attest to the fact that Claire's chickens are in no way a nuisance or a hazard. She does a wonderful job of providing for them and keeping everything very clean. They are not noisy nor produce any kind of smell. We have lived here for almost 3 years and have not once had any kind of issue with her chickens or with the way she maintains them. They are if anything, a joy to see. It is in our opinion that Claire and anyone else who provides well and maintains the cleanliness of their birds, be allowed to keep them on their property, no matter the size of said property. We were unfortunately unable to attend the hearing, but would be happy to receive a call during the time of the hearing if verbal confirmation is needed.*

*Thank you,*

**Kaylie Meacham  
Coleby LaFleur  
Alexys LaFleur**

Mr. Landry said the next email is from William and Mersedeh Netto. He read it into record.

***My wife Mersedeh and I own the property at 248 Orange street. We would like to express our support for Claire to keep her chickens.***

***We have not been affected in any way and have no environmental or health concerns regarding this. We do not feel they are any sort of nuisance and it is our hope that she may keep them.***

***Kind Regards,***

***William and Mersedeh Netto  
248 Orange Street Manchester NH 03104***

Mr. Landry asked Chairman Breault if he had Mr. Heroux's letter in his packet. Chairman Breault said the Board Members did. Mr. Landry asked the Board Members if they all read the letter. The Board Members answered yes. Mr. Landry said that was all he had.

Chairman Breault invited Ms. Provencher if she would like to respond to the testimony.

Claire Provencher said the only comment she wanted to make is that she believes that any smell or nuisance that Mr. Heroux might be experiencing was from the coop that was right next to him because that is the one that is behind and it is right beside his yard. The one that was cited last August, their chickens were removed but the coop is still there. She thinks any smell that was coming from it, was from there because that is much closer to him than her coop.

Guy Guerra said this is something that goes with the property, not with the person, correct? Chairman Breault said that was correct. Mr. Guerra said then this is something that will stick with the property even if Ms. Provencher left, we would still be looking at that issue.

Vice Chairman Simoneau asked if the Board would be able to limit the number of chickens. Chairman Breault said the Ordinance already limits the amount of chickens.

Chairman Breault said there are many criteria in order to be able to keep chickens in the City. One of them is the size of the lot has to be half an acre. He said obviously, Ms. Provencher is far short of that half an acre. One of them is setbacks of 20' and although we have heard from her abutters that there is no issue with her and she claims she wants to stay there forever, not to say that she will, and this carries forward to the next occupant of the building and creates a hazard at that point. He said the Board needs to consider all of that when they make their decision and they can't just limit it to the immediate because variances carry forward for perpetuity.

Ms. Provencher said she would like to make one comment about the placement. She said she

chose that location because it was between their carriage house and her garage, so the idea was to have it the furthest from any dwelling location. It is also quite far from the Pearl Street abutters as well. She said just for point of fact, she looked at other city's chicken ordinances. In Concord, they don't have anything about lot size. You can have any type of chickens, up to five and you can't have roosters, the same in Manchester. She said Durham is the same, maximum ten per lot regardless of how many dwelling units are on the lot. It doesn't say what size lot. Nashua is up to six chickens on a lot on a single or two-family and again, it doesn't state the size. She said in her application, if you saw the layout of her yard, where it is located is as far from Pearl Street residents as it really can be. She said she would be happy to, if she is allowed to keep the hens, to relocate the coop so it is 20' from the lot line.

Chairman Breault said he still had a problem with the acreage requirement because it is far below and not even half of what is required. Ms. Provencher asked how many lots in Manchester are a half acre, though. She said she is curious if the spirit of the Ordinance is for people to be able to have backyard chickens. How many lots are a half acre in our City? She said she doesn't think there are too many. Chairman Breault said ours is not to judge how the Ordinance is written, we are here to apply it.

***Guy Guerra made a motion to deny the following variance counts for case ZBA2022-022, 8.30(a) The Keeping of Domesticated Chickens and 8.30(d) Hen Houses and Fenced Areas Required Unit which was seconded by Michael Simoneau***

Yeas: Breault, Simoneau, Guerra  
Nays: None

Upon a unanimous vote, the variance was denied.

Greg Powers returned to the Board.

***Michael Landry said he had an announcement to make. He said the third case on our agenda, ZBA2022-023 which is property at 253 Lake Avenue, that case was tabled last month by the Board and it will remain on the table this month and will be heard next month. He said case number 13, which is ZBA2022-038, property located at 39 Tougas Avenue, the applicant has asked that we postpone it. Both of those cases will be heard on May 12, 2022 at 6:00 PM here in the Chambers and no further notice will be sent out. If anyone is here for 253 Lake Avenue or 39 Tougas Avenue, it will be heard next month.***

***(Tabled from 3/10/2022 ZBA Meeting)***

***Michael Simoneau made a motion to remove case ZBA2022-019, from the table which was seconded by Guy Guerra.***

Yeas: Breault, Simoneau, Guerra, Powers  
Nays: None

Upon a unanimous vote, case ZBA2022-019 was removed from the table.

2. **ZBA2022-019**  
**167 Pine Street, R-3 Zoning District, Ward 3**

Isaiah Able (Agent) proposes to establish a tattoo parlor within 500 feet from the exterior wall of a residential structure existing in a residential zoning district and seeks a variance from sections **5.10(H-6)12** Tattoo Parlor and **8.06(A)2** Tattoo Parlor Within 500 Feet From Exterior Wall of a Residential Structure Existing in a Residential Zone, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through February 22, 2022.

Isaiah Able said he lives at 262 Main Street. He has requested the variance because the building itself has been a commercial business for the last 20 years. Prior to him, it was a salon for the last 11 years and a barber shop prior to that for fifteen years. There has always been a business in the unit that he is renting. He simply requests that he feels as if the Ordinance was made during a time where there was a much greater stigma toward tattooing and it wasn't being viewed as what it is now. He feels that if the Ordinance allows for a salon and a barber shop, then a business of a similar nature, tattooing, should be allowed also.

Chairman Breault turned the hearing over to the Board.

Vice Chairman Simoneau addressed Mr. Able and said he knows that he indicates in his application that it is by appointment only. Mr. Able said yes. Vice Chairman Simoneau said then he is not taking any walk-ins. Mr. Able said no. Vice Chairman Simoneau asked Mr. Able if he had hours during the day, during the week. He asked Mr. Able if he was open on Saturdays. Mr. Able said again, it is by appointment only so there is no basis as to when they are open. He said it is essentially to the clients benefit and what works best for them. Vice Chairman Simoneau asked how many chairs or tables will he have. Mr. Able said there will be two booths and another artist. Vice Chairman Simoneau said then two at a time. Mr. Able said yes.

Guy Guerra asked Mr. Able if someone wanted to come in at 1:00 in the morning for a tattoo, would he be ok with that. Mr. Able said it would be at their convenience and his convenience as well. He said it would be to a certain extent being reasonable, but if someone wanted to come in earlier, at say 9:00 am or 10:00 am, which is a lot earlier than most other tattoo shops because they open at noon or 1:00 pm, but say someone has work at 1:00 pm, 10:00 am would give them enough time. He said by working only at appointments, it is very beneficial to whoever is scheduled that he can work with. Mr. Guerra said part of what Mr. Able said is he is not laying out any hours so that is what tells him that they can come at any time they want, regardless of what his neighbors may feel about it. Mr. Able said if it would benefit the residents surrounding him, he could work out hours of operation that would coincide with what they are comfortable with.

Chairman Breault turned the hearing over to the public and invited those in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Guy Guerra asked Mr. Able what parking was like there. Mr. Able said parking is street parking and is right between Pine Street and Grove Street and Green Street which is right

next to him so it is a small little block. The only time there are parking violations as of right now, are the first Wednesday and Thursday of every month due to street sweeping. Mr. Able said again, with only two chairs, there is not a whole lot of business and foot traffic. There are a lot of surrounding areas to park. Mr. Guerra said what it breaks down to be is with two chairs, you are looking at the possibility of four cars there, yours, your partner's and two customers. Mr. Able said essentially. Mr. Guerra said that is kind of what it would break down to be. He asked Mr. Able if there was no parking on the property and is all street parking. Mr. Able said yes.

Greg Powers said it looks like there is parking in the back. He asked Mr. Able if there was parking off the back alley there. Mr. Able said it is his understanding that there is parking and he hasn't worked out with the landlord whether or not he could use that. Mr. Powers said that is probably for the residents in the building. Chairman Breault said that parking looks like it would be for the tenants in the building.

Vice Chairman Simoneau asked Mr. Able about signage. He said he didn't read anything about if he was planning on putting up any signs. Mr. Able said he didn't plan on it. Vice Chairman Simoneau said then no signage or anything that indicates the name of his business. Mr. Able said a lot of tattoo shops and barber shops paint the windows and it would say so on the windows, but not a large sign above the building. Vice Chairman Simoneau said just out of curiosity, he asked Mr. Able if he would be ok with the Board limiting the hours of operation. Mr. Able said absolutely.

Chairman Breault said this is a long standing storefront in front of a three-family on Pine Street where there are many other two and three-families. He said it is right across from the cemetery. He said he didn't have an issue with this as he thinks it was an existing business. He said he thinks that if the Board makes a motion, it should include limited hours of operation.

Mr. Guerra asked Mr. Able if the Board were to sit back and propose something like 9:00 am to 9:00 pm, would that be an issue. Mr. Able said that would be perfectly fine. Mr. Guerra asked the Board Members if they were comfortable with that idea. Mr. Powers said he would even say 10:00 pm. Mr. Guerra asked Mr. Able if that would include Saturdays and Sundays. Mr. Able said they are not usually in on Sundays. Mr. Guerra said then Saturdays and not Sundays.

***Guy Guerra made a motion to grant the following variance counts for case ZBA2022-019, 5.10(H-6)12 Tattoo Parlor and 8.06(A)2 Tattoo Parlor Within 500 Feet From Exterior Wall of a Residential Structure Existing in a Residential Zone with the hours of operation being 9:00 am to 9:00 pm, Monday through Saturday which was seconded by Michael Simoneau.***

Yeas: Breault, Simoneau, Guerra, Powers  
Nays: None

Upon a unanimous vote, the variance was granted.

Michael Landry advised Mr. Able that the signage that he was going to put in his window is a

sign in itself and so in a residential district, he is going to be limited to 20 SF so he would ask that Mr. Able apply for a permit before he does that and show us that he is going to meet the 20 SF. He said it could be 5' x 4' or 4' x 5' or something like that. Mr. Able said understood.

*(Tabled from 3/10/2022 ZBA Meeting)*

3. **ZBA2022-023**  
**253 Lake Avenue, R-3 Zoning District, Ward 5**

Raphael Lora proposes to erect a 12' x 2' wall sign and a 20' x 4' wall sign resulting in three signs where one sign is allowed and seeks a variance from section **9.08** Signs In Residential Districts (2 counts), of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through February 22, 2022.

*As previously announced by Mr. Landry, case ZBA2022-023 for 253 Lake Avenue will stay on the table until the May 12, 2022 ZBA Hearing.*

*(Current Cases)*

4. **ZBA2022-028**  
**21 and 31 Central Street, CBD Zoning District, Ward 3**

Nazar Vincent (Agent) proposes to construct a 72 unit, eight story multi-family building with commercial space on the first floor, on a lot with 10, 014 SF where 40,000 SF is required and with a floor area ratio of 7.15 where 5.0 is allowed and seeks a variance from sections **8.04** Minimum Buildable Lot Area and **6.06** Floor Area Ratio, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through February 23, 2022, 2022.

Attorney Roy Tilsley said he is an attorney with Bernstein Shur and he is here on behalf of the applicant, Nazar Vincent who is seated to his left as well as their architect, Rob Paccione who is working on opening up the rendering that we brought. Referring to the overhead, Attorney Tilsley said they are here regarding the redevelopment of 21 and 31 Central Street. 21 Central Street is the Central Ale House which his client now owns as of a few days ago, as well as 31 Central Street which is the Athens Restaurant which he does not yet own, but will shortly. He said they are proposing a 77 unit, 8 story multi-family apartment building that will have an approximately 1,700 SF commercial space on the first floor. They are located in the Central Business District [CBD] in the Arena Overlay District. He said at the December 2021 ZBA Meeting, this Board approved two variances for this project as follows, minimum buildable lot of 11,390 SF where 40,000 SF is required and a floor area ratio of 5.8 where 5.0 was the maximum.

Attorney Tilsley said you will recall if you were here in December that they were proposing as part of that project, the discontinuance of Litchfield Lane as a public way as it abuts the property to the rear and upon quieting title to Litchfield Lane or to the half abutting their property using the 15' to the center line as part of their building footprint. At that meeting, again if you were here, the only concerns that were expressed about this project were from some abutters who had some concerns about the discontinuance of Litchfield Lane and the



possibility that they would be losing access to the rear of their properties for the full 30' width which they've relied on for many years. He said they also learned that subsequent to the December meeting, that any discontinuance with the City through the Department of Public Works [DPW] would require that the City receive an easement for the existing sewer line underneath Litchfield Lane for basically 20' on each side of the center line or so, in order to insure adequate maintenance area for the City. The end result is that even if we discontinue Litchfield Lane, even if they quiet title, they really only pick up about 5' to the rear to add to their property which is much less than the 15' they were looking for and hoping to get when they appeared before the Board back in December.

Attorney Tilsley said at the end of the day, after learning that and hearing the neighbors at this meeting, they concluded that there was no real benefit in discontinuing Litchfield Lane for the project. It keeps their abutters and neighbors happy which is important to them and again, the additional 5' that they could obtain to the rear, really does not provide them with enough additional area to change what they can do on the existing footprint of the two properties. He said they have reconfigured the building to fit on existing footprint of Lots 21 and 31, so what you are looking at is a building that now sits where the Central Ale House and the Athens currently sit. He said it is essentially the same 77 unit building the Board approved last time, albeit with a slightly smaller footprint. Litchfield Lane will remain the same as it currently is and will be a public way for its 30' width behind the property thus assuring that their neighbors have the access that they historically enjoy.

Attorney Tilsley said the result of this is that the variance calculations that they got variances for in December have changed, so they are here to get variances based on the new calculations. The existing variance is for a building envelope of 11,390 SF and they are seeking a variance for the current envelope of 10,014 SF and the existing variance for floor area ratio is 5.8 and the current floor area ratio will be 7.15 so they are seeking a variance there.

Attorney Tilsley said the biggest practical change in the project as a result of the shrunk footprint is the loss of underground parking. He said they were proposing an underground parking area when they were here last time. He said they could do that with the larger footprint if they had the 15' on Litchfield Lane, but with 5' of Litchfield Land, it just doesn't work. Basically, they have ramps and no places to park cars. The ramps aren't wide enough and don't work. You couldn't get a pickup truck down there. At this point, the proposal is to have 15 onsite parking spaces on the first floor and as you see from the plan, they've got that 1,700 SF storefront, a leasing office and then kind of in the back, the first floor is open and they will provide 15 parking spaces there. He said this frankly, is fully compliant with the Zoning Ordinance as in the CBD there is no onsite parking requirement.

Attorney Tilsley said they do plan to have, and they recognize that the Planning Board will be looking at this at site plan approval and when they get there, they do plan to have a comprehensive parking plan for them to review. They understand that that will be an issue that they are going to want to discuss and frankly, from his client's perspective, from a practical perspective and he thinks this is the way the CBD works, it is really an economic issue. If he is going to build an apartment building and rent apartments to people, to be competitive in the market, he is going to have to figure out a solution to offer his tenants parking because his competition offers parking. They will need something more than just say

the City allows you to park on the street, good luck. They are still working on that and they don't think it is a zoning issue because there is no parking required. They acknowledge that they will have to take it up with the Planning Board and they expect that they will have some kind of a parking garage arrangement, plus the spaces they have onsite, that they hope will alleviate any concerns that the City has about this. Again, from their perspective, as much as that may be as a regulatory issue, it is a market issue because again, they need to offer the tenants something besides good luck on the streets of Manchester.

Attorney Tilsley said the variance criteria are really the same as he covered last time, but he would walk through them quickly. The proposal is not contrary to the public interest and it is consistent with the spirit of the Ordinance. They do not conflict with the basic objectives of these zones and they do not alter the character of the neighborhood. They are continuing to redevelopment of this block which the Arena Overlay District is designed to encourage, as you know, the new hotel is right next door. The CBD promotes a wide variety of maximum density uses. This is a maximum density use. The Arena Overlay supports pedestrian oriented housing uses and discourages auto intensive uses, and again, he thinks that is what they have here. Essentially, they view this neighborhood and this area as a bridge between Elm Street, the Millyard downtown and the Arena and this is a development that helps to bring those areas together. The height of the building is consistent with the height of other buildings in the area including the new Residence Inn, the Doubletree and the Center of New Hampshire. The maximum density and height are consistent with the neighborhood.

Attorney Tilsley said the proposal does substantial justice. There is no injury to the public by granting these variances. This proposal is consistent and compliments the character of the neighborhood. It is a gain to the public and the applicant by granting the variance. The applicant gains by being able to proceed, with what he thinks is an important redevelopment of this particular area, which needs it. He said they can continue the redevelopment of this block, they create this bridge between the Arena and the downtown and they are adding 77 units to the City's housing stock which is much needed.

Attorney Tilsley said the values of surrounding properties will not be diminished by the variances. He said multi-family buildings are allowed as a matter of right. The area is already developed with maximum density uses and tall buildings are allowed. Essentially, they are replacing two local businesses that have pretty much run their course with a new type of development here that will bring a sense of vibrancy and urban feel to this area between the downtown and the Arena and continue to redevelopment of this area. They believe the proposal is consistent with the vision of both of these zones.

Attorney Tilsley said regarding unnecessary hardship, the special condition of the property as he stated last time and as this Board found, is that it is uniquely situated for multi-family development. It abuts retail, restaurant, hotel and park uses. It is a complimentary transition area between the Arena area and downtown Elm Street and the Millyard. It is easy walkability for residents of this complex to use the Arena, to get to the Millyard, to get to Elm Street as well to users of the commercial space on the first floor. Owing to these special conditions, there is no fair and substantial relationship between the purpose of the zoning restrictions and application to the property. Downtown is already full of tall buildings and properties developed to maximum density. The zoning encourages maximum density and high-rise construction. This is a pedestrian oriented transition area. They serve that purpose

between the downtown and the Arena and they are adding 77 units to the housing stock.

Finally, Attorney Tilsley said the proposed use is reasonable. Multi-family uses are allowed by as a matter of right and high-rises and maximum densities are encouraged. Again, it is really the same proposal other than the underground parking that you saw a few months ago. It changes the numbers a bit and they appreciate that. They think it still works and they think it is a good improvement for this area. They understand that they are going to have to sharpen their pencil with the Planning Board on parking and they intend to do so.

Chairman Breault turned the hearing over to the Board.

Guy Guerra asked what happened to that sexy building that they brought to the Board back in December. He said this is a box. He asked the applicant if he had a copy of the other building that was shown to the Board. Attorney Tilsley said he thinks they did. Mr. Guerra said it was wicked good looking with parking and all sorts of stuff. Chairman Breault said in addition, it added roof top amenities that aren't shown here at all. Mr. Guerra said it had a bunch of pretty stuff. Attorney Tilsley said he thinks the roof top amenities are likely gone. It is going to be basically apartments. It just doesn't work from a cost perspective to do stuff up there on this footprint. Mr. Guerra said and then you take away parking. Attorney Tilsley said they don't really have a choice. It just doesn't work. Mr. Guerra said they sold the Board on a bunch of good looking stuff. Attorney Tilsley said understood. He said they are back and they are not trying to bamboozle anybody, but it just doesn't work. They can't get that area back there. When they looked at it hard and talked to DPW and looked at the sewer line and they said that you can have 5', it just doesn't work.

Mr. Guerra said the only thing that scares him about this is there are a lot of projects going on and some significant projects going on. He said across the street from Verizon, there is a large one going in where it is questionable whether the amount of parking is going to be good. He said granted, he understands that in that particular area, you don't need it, but there is going to come a point where you've got that apartment complex fighting for the parking, your complex fighting for the parking and then throw in a hockey game. All of the parking is gone. The thing that enticed him about what they were presenting there was something that wasn't a box, it had at least some pretty detail on the top that broke up the skyline and now we are losing parking on it too. He said he gets it, they don't need the parking. It is just unfortunate to see.

Attorney Tilsley said he thinks they can address some of the design stuff at the Planning Board. Rob Paccione said they could detail up the roof edge and make that a little better looking. He said that is certainly something they can discuss. Mr. Guerra said especially being downtown.

Chairman Breault turned the hearing over to the public and invited those in favor of or in opposition to this application or those with general comments to come forward.

She said she actually represents the Marriot Inn. She said this is the first opportunity that she had seen from their corporate office, AM15 owns and manages the building. She said they are excited for a new project to come in, however, she just wanted to come and hear about the parking plans, which is sounds like there will be a comprehensive plan forthcoming. She said

they would just like to stay in tune with that up to date. She said parking is very tight. On their sold out nights, they don't have enough spots for their sold out hotel. Their overflow is on street parking coupled with an event going on, so they are very regimented about that and do a lot of towing. She just wanted to make sure that we all work together as neighbors and can make this project happen. Again, they would just like to be kept in the loop with what the plans would be, because they are in very close proximity to each other. Attorney Tilsley said they would be happy to do that and again, they understand that they need something better than just turn people loose on the streets.

The Chairman turned the hearing back over to the Board.

Chairman Breault said he doesn't see something he expected was going to come back to the Board. He said he knew there was a sewer line there. Vice Chairman Simoneau said when he saw the packet and the agenda, he actually pulled the offering from December and looked at both plans yesterday and today and Mr. Guerra took the words right out of his mouth. He said this is a beautiful building and he was very pleased to be one of the Members of the Board that voted for the project in December, but everything has changed. He said the roof line, the front and he was saddened to see the issue with the parking because parking is an issue. He said he lives, works and plays in Manchester. He goes to the SNHU Arena and he goes to the restaurants. He usually drops his wife off at the restaurant and he knows it is going to take an hour before they sit down which gives him an hour to find parking. He really liked the December proposal. He said he is just wrestling with it.

Attorney Tilsley said he understood and said he thinks they can work with the Planning Board and try to address some of that. It is obviously, as the Board Members know, a difficult cost period in terms of designing and building buildings and with the reduced footprint it does, at some level, reduce what they can do cost wise because they are ending up with smaller units and what have you. He is sure there are things they can do. Rob Paccione said going back to what they had previously shown, the first floor retail and a lot of this residential façade here is very similar to what was previously presented. Certainly the roof edge has changed. He said they had built this up in order to provide a bit of a screening to some of those roof top amenities and when they took those out, they thought, ok, so we don't necessarily need that there as it is not really functioning as it was in the previous iteration. He said they can certainly look at, as Attorney Tilsley said with the Planning Board, trying to get some of that look back and add some more of that detailing instead of doing just a typical roof edge that you might see on a building without the roof top amenities like this one is showing. There is certainly some stuff they can do to add more detail.

Chairman Breault said he thinks the applicant making a statement that they are going to make and attempt to restore some of that look gets the Board where they need to be. Vice Chairman Simoneau said he understands the frustration that the applicant went through with respect to parking and the street and it is what it is, but if they could go back to the style of the original plan. Attorney Tilsley said they hear the Board loud and clear. He said the Board Members could show up at the Planning Board hearing. Vice Chairman Simoneau said it is a give and take. Attorney Tilsley said he didn't want to speak too much for Rob Paccione, because it is easy for him to say, but as Rob said, he thinks we can work some of that back in and address that with the Planning Board. Vice Chairman Simoneau said he thinks this is still good. He thinks the location is perfect for it. He said if they just kept the style, as Mr. Guerra said, the

sexiness and beauty of the building as we are all proud of our City. We want it to look good and to change some of the décor or style he thinks, they took away from what we all looked at back in December. Again, he understands the parking issue and he understands what they went through and the frustration and he is willing to go along with the applicant on that but if we could bring back some of the style because this building is going to last for a long time. He said just like George's right in front of it. That is a landmark and it is history.

Greg Powers said he would like for the record to confirm whether this is a new variance or a modification of a previous variance because these are the same sections of the Zoning Ordinance that we covered at the last variance. He said this has come up with other cases. Chairman Breault said this would be a new variance.

***Greg Powers made a motion to grant the following variance counts for case ZBA2022-028, 8.04 Minimum Buildable Lot Area and 6.06 Floor Area Ratio which was seconded by Michael Simoneau.***

Yeas: Breault, Simoneau, Guerra, Powers  
Nays: None

Upon a unanimous vote, the variance was granted.

5. **ZBA2022-027**  
**409 Elm Street, CBD Zoning District, Ward 3**

Attorney Daniel Muller (Agent) proposes to erect a projecting sign facing Elm Street 9' in height where 8' is allowed, a proposed roof sign facing Elm Street 174 SF in size where 100 SF is allowed, and install a total of four signs on the Elm Street façade where three signs are allowed and seeks a variance from sections **9.09(A)2 Signs** (6 counts), **9.09(C)4 Signs** and **9.07(F) Signs**, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through February 24, 2022.

Attorney John Cronin said he is an attorney with Cronin, Bisson and Zalinsky and seated with him was Ron Dupont, the Principal of the applicant here, Red Oak Properties. He said as you know, you have seen their various units and they've got quite a few around the City. He said he is sure that many of you have seen the beautiful building that is going up on South Elm Street and they are excited to see that come to life and add some vitality to that corridor. He said when this went through the approval process it was premature to talk about signs. The sign package hadn't been developed at that particular time, but the time is now to get those done. He said he understands with supply chain and everything else and with the façade of the fixture going up, the fasteners and things need to be contemplated into that design so they are ready to proceed with the signage.

Attorney Cronin said Red Oak, again, has been in the City for a long time. They have a significant number of properties and also employ 46 full time employees for whom they offer medical, 401k and a whole list of benefits. They also have 403 residences here in the downtown area in units that they own. This particular building, which fits with the CBD intent and vision, is right on the outskirts, on the southernmost edge of that particular zone and what they are seeking to do here is get some variances for some signs. It is pretty

straightforward and pretty direct. He said if the Board looked at their package and if they have the sign package with them, they will see the front elevation of the building. There is a projecting sign that comes out onto Elm Street. When that was initially designed it was a little bit larger, but there was a meeting with the Arena Overlay Committee and that was reduced to bring it back a little bit in size. There was also a suggestion that it be merged to make it one sign rather than two. He said if you can see in the drawings, there is a separation between the section where the number is and then the logo down below. He said they took a look at that but because of the hardware and the way it is designed, it works best and aligns best with the windows if there is some separation there. If that was one sign, essentially there would be no need for that variance to allow four where three are required because that sign, even though it effectively works as one, it is being counted as two.

Attorney Cronin said that is the relief that they are seeking there, to allow four of those signs. The four would include those two in the projecting sign, the awning sign and then the roof sign. The roof sign is allowed and 100 SF is what the Ordinance provides for. That proposed is 175 SF and when you look at it in terms of the size and scale of the building, it really fits well. Something that is smaller would probably be lost and when you look at the buildings along that corridor, the intent of that downtown district is just to bring them up to the sideline of the sidewalk, so there are really zero setbacks. They think that will be important and also, it will give some distance. They expect that this will attract a lot of people, bringing them into the downtown urban areas to spend their dollars and patronize the area businesses will be nice. He is not sure if they will be able to see it from the interstate, but it will be a nice way marker for them to find this particular site.

Attorney Cronin said there is also one other variance with respect to height. He said for a projecting sign, the Ordinance calls for 8'. This sign, designed with the separation is 9'. Again, it is a rather small request. He said he could go through the five criteria and he knows the Board has a long agenda and he is happy to waive them as they have been addressed in their application.

Chairman Breault turned the hearing over to the Board.

Chairman Breault said he didn't think Attorney Cronin needed to go through all the criteria.

Greg Powers said he had a question about the sign facing Willow Street. He said obviously, this Board's purview is not design, but when he looked at that larger sign that says "Apartment Homes" on that side, he imagines people driving down Willow Street, which is one way and in order to see that sign, you would have to crane your head backwards and sideways. He is wondering, in the interest of perhaps reducing, and this is an exaggeration, it is not a cluttered sign, but in the interest of reducing whatever clutter there may be, could a projecting sign be on that side of the building to replace that large vertical banner. He said just because people walking down Willow Street on the sidewalk would see the projecting sign. They are not necessarily going to see that larger one and anyone driving, again, is going to have to turn their head. Attorney Cronin said that is something they could take a look at. He thinks it may require another application because there is a limitation on the dimensions of the projecting sign, let's say 8'. Mr. Powers said he is not saying to take that particular sign and make it a projecting sign. He is saying, take the projecting signs that are on the other side, maybe the same size, and use that same design on the Willow Street side so you have a

projecting sign that says “Apartment Homes” but it is legible to people who are walking or driving by. Attorney Cronin said it is a great suggestion and they could take a look at it. He thinks based on the number, you get three per façade, so they might be able to do that without the need for a variance to provide, as Mr. Powers said, that dimensional look for people going north and south. He said that may work.

Chairman Breault turned the hearing over to the public and invited those in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request.

Chairman Breault asked Mr. Landry if there was any correspondence on this case. Mr. Landry said yes. He said the Arena Design Review Committee took a look at this and he read their letter into record.

***The Committee has reviewed the proposed building signage and does not support the roof top sign as represented. Further, the Committee finds that the remainder of the proposed building signage as represented meets the intent of the Arena Overlay Design guidelines and recommends the issuance of a sign permit.***

Chairman Breault asked Mr. Landry if they mentioned the size of that roof top sign or anything else. Mr. Landry said they didn’t go into detail. Attorney Cronin said he thinks the only limitation of the comment was the size because it does exceed the Ordinance. He said he could speak to that a little bit. He said he thinks of when the CBD was determined and it was in conjunction around near the time when the Arena was being constructed and he thinks the concern was that there might be signs that are competing with the Arena, which of course we didn’t want in that particular area and there are some restrictions down there as well. The way this is positioned and the proximity to the Arena is about as far south as you can get in that CBD area. He said he didn’t think that there will be any conflict with respect to the sign.

Chairman Breault turned the hearing back over to the Board.

Vice Chairman Simoneau said he had a general comment. He said Red Oak Properties are throughout the City and their signs are always in good taste, so he commends Red Oak for that. He said you can tell that there is a lot of pride in what they do and how they portray their name. He said he may have missed it, but asked if all of the signs were halo lit. Attorney Cronin said yes they are face lit.

Vice Chairman Simoneau said he believes this meets the five criteria.

***Michael Simoneau made a motion to grant the following variance counts for case ZBA2022-027, 9.09(A)2 Signs (6 counts), 9.09(C)4 Signs and 9.07(F) Signs which was seconded by Greg Powers.***

Yeas: Breault, Simoneau, Guerra, Powers  
Nays: None

Upon a unanimous vote, the variance was granted.

6. **ZBA2022-025**  
**54 Windswept Road, R-1A Zoning District, Ward 6**

Steven and Theresa Kavalek propose to convert 484 SF of an attached garage to an owner occupied beauty salon with no employees and create two parking spaces for beauty salon clients and seek a variance from sections **8.25(B)** Home Occupation Beauty Shop and **10.02(F)** Business Parking in Residential District, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through March 7, 2022.

Steven Kavalek said he was speaking for himself and his wife to convert their existing two-car garage into a beauty salon. He said his wife is a local from Manchester and has been in the hair dressing game for about 15 years, including for herself as well as working her way up. He said based on a number of factors, including rising rents and changing personal situations, they feel this would be the best for them at the time. He said he outlined in the materials why this meets the variance criteria guidelines. He will note there is a 6' high vinyl fence surrounding the property, most of which is behind and the salon or the garage will be behind that fence. They have illustrated parking, adequate for two cars and another two cars behind those with an easy egress from the existing parking area, not on the street. As part of the Master Plan here, they will then be submitting further on to build a separate, new two-car garage, of course within line of all the City Ordinances. Finally, he will note that they did submit from an established realtor in the area that this is intended to increase the value of their home and the surrounding area while also not detracting from the character of the neighborhood. He said he would also mention that there is precedent here as there are probably two or three other home salons that he knows of within about a mile of their home. It is a quiet area of town and they intend to keep it that way.

Chairman Breault turned the hearing over to the Board.

Guy Guerra asked what the development name was for Windswept Road. Mr. Kavalek said it is Brookfield. Mr. Guerra asked if there were any other businesses in Brookfield. Mr. Kavalek said they have Fallon's Furniture which directly abuts the outside of the development. Mr. Guerra said that is outside and asked if there were any within the development. Mr. Kavalek said within the development, not that they know of.

Vice Chairman Simoneau said we are looking at two booths? Mr. Kavalek said just one. He said one chair as his wife is the only owner of Soul, LLC and she will be the only employee. The intent is to only take one client at a time and most of her clientele currently are friends and family. Hours will be limited to mother's hours and on Sundays and Mondays, salons are usually closed. She will perhaps do Saturday afternoons.

Chairman Breault asked about signage. Mr. Kavalek said there will be no signage. Chairman Breault said then there will be no outward appearance whatsoever. He said the applicant shows two chairs in their plan. Mrs. Kavalek said she just has two chairs. She said one would be for her to sit down and talk with her client. It wouldn't be to rent out or anything. Vice Chairman Simoneau said that is what he was going to ask the applicant, if there were two booths. Mrs. Kavalek said not for rent. It would just be her in there. Vice Chairman Simoneau said as Mr. Guerra mentioned earlier, you've got two employees, two customers and you are already at four vehicles so this plan is not right? Mr. Kavalek said it is correct, however, it



will just be one client at a time. There is no intent to service more than one client at one time. He said his wife is the only owner and she will not rent a booth or anything and intends to run the operation by herself. Chairman Breault said then they are fine with the Ordinance that the only employee can be yourself and no other employees, so they are not looking for relief from that. Mr. Kavalek said they would prefer that, actually.

Michael Landry asked why the second work station was necessary. Mrs. Kavelek said if not, she will just have one. She said she just has an extra chair and an extra station and she doesn't necessarily need to put it out there. She could get rid of it if need be. Mr. Landry said this is a home occupation and she is representing that it is going to be one person and one work station. It probably makes sense to do that, but he would leave that to the Board. Mr. Kavelek said he is not a hairdresser but one could imagine that there might be times in which each chair is used for a specific purpose, different from the other while still keeping those services to one client and one owner employee. He said of course, they are open to the Board's recommendation here.

Chairman Breault turned the hearing over to the public and invited those in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request. The Chairman asked Mr. Landry if there was any correspondence regarding this case. Mr. Landry said the applicant did provide a brief letter from a real estate agent. Chairman Breault said that letter was in their packets. Mr. Landry asked the Chairman if he felt it necessary to read the letter into record. Chairman Breault said he didn't think it was necessary as the Board Members all had an opportunity to look at it.

Mr. Kavalek said they did solicit their neighbor's opinions with a letter that they sent around to all the abutters and the President of the Association and they didn't hear anything back.

Chairman Breault turned the hearing back over to the Board.

Chairman Breault said in reality, you are going to lose your overhead doors to probably put a fixed wall, an entrance and that is about the only change to the outward appearance of the whole property. Mr. Kavalek said that is correct.

Guy Guerra said he had a hard time finding where it fits in the criteria. He said they've got a very developed single family home in a quiet area with no businesses in the area and they are looking to introduce one and they are telling the Board that it is not going to diminish the values of current surroundings. He said he doesn't see substantial justice being done. He said he doesn't understand the hardship and that is a personal opinion. He is just looking at a nice quiet development they've got there and they are looking to bring a business into it, which sort of sets a precedence and he doesn't know that this is necessarily the precedence that the Board wants to set.

Mr. Kavalek said they will note that just a little further down from them, there is another development of which the name of it he can't recall which is a fairly new development off of Megan Meadows. He said there is a home salon that was recently established there. Mr. Guerra said we are not talking about that tonight, we are talking about yours.

Greg Powers said he has a hard time with the hardship criteria as well. He said just because

the criteria depend on special conditions of the property that distinguish it from other properties in the area and he doesn't see that that is the case. It is essentially the same as all the other houses in Brookview, so he is struggling with that.

Vice Chairman Simoneau said there will be no signs. Mr. Kavalek said that is correct, there will be no signage. The intent is to keep it as invisible as possible. They love the character of their neighborhood and they don't intend to alter that in any way. It is really more of a personal choice for them. Vice Chairman Simoneau said there will be no lights. Mr. Kavelek said no outward appearance at all. Vice Chairman Simoneau asked what their hours would be. Mr. Kavelek said as stated, it would be mothers hours and he put Monday through Friday and 10:00 am to 5:00 pm on the application. They are happy to modify that if necessary. Salons are typically closed on Sundays and Mondays. Again, most of his wife's clients are and will continue to be friends and family. Vice Chairman Simoneau said then Monday through Saturday, 10:00 am to 5:00 pm. Mr. Kavelek said sure.

***Michael Simoneau made a motion to grant the following variance counts for case ZBA2022-025, 8.25(B) Home Occupation Beauty Shop and 10.02(F) Business Parking in Residential District with the stipulation that the hours of operation would be Monday through Saturday, 10:00 am to 5:00 pm which was seconded by Bob Breault.***

Yeas: Breault, Simoneau

Nays: Guerra, Powers

Chairman Breault said that motion fails, as it is a two to two tie. He said they would need another motion. Guy Guerra asked what the change would be. Michael Landry said it takes three affirmative votes to take any action, whether it be to grant or to deny the relief. If there is no other motion, he would recommend that the Board table this, unless they think the other side wants to make a motion. They could do that. The alternative is the Board can't resolve this case with a two to two vote and he would say that the Board would be wise to make a motion to table this and wait until we have a full Board of five voting Members.

Mr. Kavelek asked if there was any action that they could take to make this more attractive or possibly make this less unattractive to either Mr. Powers or Mr. Guerra. Mr. Powers said it is not really a matter of attractive or unattractive. Again, he is struggling with the hardship. He said in their application it says we note that as a result of changing direction due to the ongoing Covid 19 pandemic, the New Hampshire Board of Barbering and Cosmetology has relaxed certain rules and policies to allow both mobile hair salons and home visits with clients. He said he understands that, but this is neither one of those. This is clients visiting your home in a residential neighborhood. Mr. Kavelek said that is correct and they feel this is in the spirit, however, of these enhanced guidelines from the New Hampshire Board where it used to be that salon activities were only to take place in an established salon and now the Board has offered guidance to say, given the criteria, given the individual's uncomfortableness going out in the public, you can make certain concessions that are more comfortable to the client and the stylist. Of course, this isn't explicitly one of them, but they do feel it is along the same lines, though, with the flexibility that is now allowed.

Chairman Breault said he doesn't think this is going to go anywhere. He said he thinks the Board should make a motion to table and the applicant can come back next month when we

have a full Board. Unfortunately, we are short this evening so there are four of us and we usually have five voting members. That isn't the case.

***Guy Guerra made a motion to table case ZBA2022-025, to the May 12, 2022 ZBA Meeting which was seconded by Greg Powers.***

Yeas: Breault, Simoneau, Guerra, Powers

Nays: None

Upon a unanimous vote, case ZBA2022-025 was tabled to the May 12, 2022 ZBA Meeting.

Michael Landry announced that this case will be heard at our next public hearing which is going to be May 12, 2022 at 6:00 pm here in the Chambers. No notices would be sent out.

7. **ZBA2022-009**  
**729 Pine Street, R-2 Zoning District, Ward 3**

Brendan and Madelaine Gilmartin propose to convert a single-family home to a rooming house with five guest rooms on a lot with 4,410 SF where 10,000 SF is required, with lot frontage and width of 51' where 100' is required, side setbacks of 6' and 8.5' where 20' is required and floor area ratio of 0.77 where 0.5 is the maximum allowed and create three undersized parking spaces 0' from the lot lines with one space within 4' of a building and seek a variance from sections **5.10(A)9** Boarding or Rooming House, **6.01** Minimum Buildable Lot Area, **6.02** Minimum Lot Frontage and Lot Width (2 counts), **6.03(C)** Side Yard Setback (2 counts), **6.06** Floor Area Ratio, **10.09(B)** Parking Setbacks (5 counts) and **10.07(B)** Parking Layout (3 counts), of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through March 8, 2022.

The applicant was not present. Chairman Breault said he thought the Board should move forward with this case. He said it is a pretty substantial case. He asked the Board Members if they were all familiar enough with this application.

Michael Landry addressed Chairman Breault and said if he gets a sense of the way this is going and usually, we have no problem granting when the applicant is not here, but he thinks due process would probably recommend that they be here to speak out for themselves, despite where he thinks the Board may go. He said he thinks it is fair for them to be heard.

Chairman Breault said they are obviously aware that this was happening this evening. Mr. Landry said if the Board thinks that this is just so black and white, he will leave it to the Board to decide. That's his two cents. Chairman Breault asked the Members of the Board what they would like to do. He said there had been some correspondences sent in regarding this case. Vice Chairman Simoneau asked if the Board could hear those. Chairman Breault said if the Board continues with the case, they should continue with the case and Mr. Landry will read it into the record and we will hear the abutters if there are any. He said he recognizes that there are abutters here so is everyone in favor of moving forward. Greg Powers said if a decision is made, they do have a chance to appeal. Chairman Breault said they can appeal. Mr. Powers said then he thinks the Board should move forward with this case. Chairman Breault asked the Board Members if they were on the same page. The Board Members agreed to hear the case.

Chairman Breault said the Board Members had the opportunity to look at this case and his assumption is that the people in attendance that want to speak have as well and they all have something to say.

Chairman Breault turned the hearing over to the public and invited those in favor of this application to come forward. No one came forward to this request. The Chairman invited those in opposition to this application to come forward.

**Lynn Lacascia** of 683 Pine Street said she has a petition which is five pages filled with neighbor's signatures that are opposed to this being passed. She said she is a member of Crime Watch in her neighborhood and said crime has been on the increase. She said they have a beautiful neighborhood and they are a very tight neighborhood. They are very concerned about this property and what that is going to do to the value of their homes. Turning a one-bedroom into a five room boarding house or bedrooms or whatever you call it, they feel as neighbors who have single-family homes that this is opening up a Pandora's box that they don't want opened in their residential area. There is also an issue about parking. She said she believes something was said about five parking spots and there are only three in the back, so they are concerned about that. They are concerned that if this is passed, it will set a precedence for further zoning changes and it is going to change the dynamics of not only our beautiful neighborhood, but it could possibly increase the problems that we are having with crime that has already started.

Ms. Lacascia said the other thing this household has, they have from the Police Department, the problems from this house in the past. This is a house that doesn't have necessarily a good track record under the same owner, so they are very, very concerned and they are hoping that the Board will do the right thing and they can maintain their very nice and protected neighborhood. Ms. Lacascia presented Mr. Landry with the petition signed by neighbors.

**Brandon Roleau** said he owns 689 Pine Street which is just a little south of the 729 Pine Street property. He said in addition to Ms. Lacascia's points, he would like to add that safety is one of his concerns as a shared alleyway with the traffic that is sometimes both ways and there are young children and grandchildren and he even knows of some dogs and people that walk that alleyway a lot. He just has some concerns with the conversion of the single-family home to a five guest boarding house.

**Korran Rivers** said he lives at 77 Liberty Street which is the street adjacent to Pine Street. He said he just wanted to echo the sentiment of everyone that just spoke. He said he agreed with them 100%. By bringing that type of establishment in the neighborhood would be a detriment, in his opinion, to the neighborhood and the safety of the residents. Given the track record of the current owner, they would rather not see it in the neighborhood. Hopefully the Board will do the right thing.

**Kim Tufts** of 34 Liberty Street said she concurs and agrees with previous testimony and has nothing more to say other than what has already been said.

**Dan Hannon** said he is a fifteen year resident and homeowner at 89 Liberty Street. He said you will see a bunch of them from Liberty Street that are also part of the petition as well. He said he is just expressing similar sentiments of opposition. He said it is a single-family neighborhood

with some two-families mixed in, in the Liberty Street, Pine Street and Union Street little quadrant of theirs that is great. He said many of us are parents raising our kids going to Webster School, Hillside and Central. It is a great neighborhood and this is a red flag for all of us and the track record that was mentioned began with a gun incident in this residence in question in July of 2020 that really struck us to the core. There were two roommates of some sort living there that had an argument and turned to guns and it stuck with them and so when this came up and they saw what they were proposing, the neighbors all gathered and those who were available wanted to come speak.

**Christa Roth** said she owns 73 Liberty Street and these are all of our neighbors. She said she is raising her young family there with her husband and she doesn't think a five room boarding house is in the spirit of the neighborhood at all. She is requesting that the Board deny it.

**Attorney John Bisson** from Cronin, Bisson and Zalinsky said he is here on behalf of 727 Pine Street which is a property owned by Tina Szpak. He said she is a direct abutter to the proposed variance for a boarding house. He said he submitted a letter earlier and asked if it was in the packet. Chairman Breault said it was and Attorney Bisson said he wouldn't belabor it. He said he wants to say that if professionals or attorneys or planners had come with this application, the staff would have sent them home laughing. He said he does appreciate that people should be encouraged to proceed without using expensive professionals and he understands that, but what we have here is an intensive change in use for this property. It is stuffing it onto a penny sized lot.

Attorney Bisson said they are looking for a use variance to make it a five room boarding house and four or five dimensional variances. We have a hand drawn sketch that has no verifiable data on it. We don't have a floor plan which would be required for dealing with the floor ratio and he is not sure how you would calculate that without a floor plan. He said he submitted some photos in support of his position to show that the claimed three parking spaces appear to not be possible. What they need is five and three is not possible. He is not sure how they get to four. In addition, their own tax record shows that they have an illegal use in this property now. The third floor and the basement, according to the tax record in the packet, were illegally put in there so they have a current illegal use. He said they are here asking for something else, some more intensive relief. The criteria, they don't even try to discuss. They suggest that we need homes for professionals and nurses which none of us are going to disagree with, but the character of the person who might rent the property has nothing to do with the variance request. It is the property and this property doesn't support it. It is way too small and the use is way too extensive with way too much burden on this property. There is no basis for any of the variances and encourages the Board to deny this request.

The Chairman invited those with general comments to come forward. No one came forward to this request. Michael Landry said he had an email from Alan Lyscars of 721-723 Pine Street and he read it into record.

***We, the previously undisclosed parties and stakeholders of the neighborhood and its environs, strenuously object to the granting of a variance as to the proposed use of this aforementioned property.***

***All of us realize that affordable housing is important in order to maintain the vitality of***

*Manchester. But we, as stakeholders and neighbors in our little neighborhood, acknowledge that a dense use boarding house, located in this R-2 neighborhood, would be detrimental to our local community and not in keeping with our stable, convivial way of living. The property in question was originally built as a single-family dwelling by the Amoskeag Corporation near the turn of the 20th century. While many homes in our neighborhood were converted to two-family use, as was my own, I'm sure that no one in time ever thought that one of these structures could possibly support a boarding house regime. It's simply not keeping in character with who we are as neighbors, nor in keeping with the common-sense rules set out by the original Zoning Ordinance.*

*In my opinion boarding houses can, and have, played an important role in supporting transient housing in our country, especially in the days after World War Two. I still believe that boarding houses are, today, underutilized as a means of providing affordable housing to those just starting out in life. My objection to this variance request rests not on the idea of the proposed scheme, but on what I perceive would be an inappropriate and unsafe use of this property at this location if the variance should be granted.*

*Even a cursory eyes-on review of the property in question would, in considering a variance to the rule, admit to a common-sense denial of a variance on its face. The property has almost no parking for only two families. Therefore, multiple transient tenants would have to park on Pine Street and we already know the challenge presented to our plow crews in winter on this subject. I won't bore you further with my observations, suffice to say, that this property would make a fine 2-unit contribution to the City's inventory.*

*I ask the Board that please, on my behalf and my neighbors in opposition, if not in fact of the Ordinance, deny the Petitioner's request for Variance.*

*Yours Sincerely,  
Alan Lyscars  
721/723 Pine Street  
Property Owner*

Mr. Landry said he had two more emails and he read them into record. The first was from Dan Hannon.

*Dear Zoning Board,*

*I am writing to let the Board know that me and my fellow residents on Liberty Street and the surrounding neighborhood strongly disapprove of the potential "rooming house" being proposed for 729 Pine Street. Those of us who were available this week have signed a petition stating as such and will be in attendance at tonight's Zoning Board meeting (ZBA2022-009).*

*We want to be able to know our neighbors and know who our children will possibly be interacting with, not living next to a revolving door of people who, for whatever reason, cannot secure long-term housing.*

*This is not the right direction for our neighborhood and we vehemently oppose this proposed zoning variance.*

*Sincerely,  
Dan Hannon  
89 Liberty Street  
Manchester, NH 03104*

Mr. Landry said the second was an email from Christa Roth and he read it into record.

*I am writing to let you know many of the residents of the Liberty Street neighborhood strongly disapprove of the potential "rooming house" being proposed for 729 Pine Street. We have signed a petition stating as such and will be in attendance at tonight's meeting.*

*We want to be able to know our neighbors and know who our children will possibly be interacting with, not living next to a revolving door of people who, for whatever reason, cannot secure long-term housing.*

*This is not the right direction for our neighborhood and we vehemently oppose this zoning change.*

*Sincerely,  
Christa D. Roth  
73 Liberty Street Owner*

Mr. Landry said that was all he had. The Chairman turned the hearing back over to the Board.

Chairman Breault said in the applicant's absence, he feels that their submission of the application makes them heard regarding the material and he doubts that there would be anything that they could say that would overcome the evidence that was presented this evening, particularly where it applies to the five criteria. He said he believes that this is contrary to the public interest as evidenced by the amount of neighbors that have spoken or written against it. It is not in the spirit of the Ordinance. It is out of character of the neighborhood and would affect values and he could go on and on with the amount of things that it is contrary to and not in the spirit of the Ordinance. He said he is not in favor of this.

Greg Powers said he agreed with Chairman Breault and said he doesn't think any of the five criteria are met.

*Greg Powers made a motion to deny the following variance counts for case ZBA2022-009, 5.10(A)9 Boarding or Rooming House, 6.01 Minimum Buildable Lot Area, 6.02 Minimum Lot Frontage and Lot Width (2 counts), 6.03(C) Side Yard Setback (2 counts), 6.06 Floor Area Ratio, 10.09(B) Parking Setbacks (5 counts) and 10.07(B) Parking Layout (3 counts) which was seconded by Guy Guerra.*

Yeas: Breault, Simoneau, Guerra, Powers  
Nays: None

Upon a unanimous vote, the variance was denied.

8. **ZBA2022-034**  
**239 Aaron Drive, R-1B Zoning District, Ward 6**

Dennis Antle, Jr., (Agent) proposes to construct a 14' x 16' two-story addition with a rear yard setback of 18' where 30' is required and seeks a variance from section **6.03(B)** Rear Yard Setback, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through March 8, 2022.

Josephine Puthota said she is the home owner and she would like to build a therapy room for her son in the back of the house.

Chairman Breault turned the hearing over to the Board.

Chairman Breault asked the Board Members if they recognized that Mrs. Puthota has a child that needs extra care.

Greg Powers said he had a question. He said the deck has new stairs and a new landing right there. He said the proposed addition really only extends about maybe 4' beyond the existing deck. Mr. Antle said that was correct.

Chairman Breault turned the hearing over to the public and invited those in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Chairman Breault said when you look at the plan, on the last page, the addition is the same setback as the existing house and of course it is the same setback as the deck. Guy Guerra said except for 4'. She is adding 4'. Chairman Breault said that is not significant. He said he thinks that this is not contrary to public interest.

Vice Chairman Simoneau said this is one of the properties that he did go by. He said it is very well kept and the neighborhood is a nice neighborhood and he has no problem with this request as Mr. Guerra mentioned, we are only talking 4'. To echo what Chairman Breault just said, it is not contrary to public interest and is in the spirit of the Ordinance. He said he doesn't believe it is going to affect the values of surrounding properties and we can all see the hardship.

***Michael Simoneau made a motion to grant the following variance count for case ZBA2022-034, 6.03(B) Rear Yard Setback which was seconded by Guy Guerra***

Yeas: Breault, Simoneau, Guerra, Powers

Nays: None

Upon a unanimous vote, the variance was granted.

Michael Landry said the next two cases on the agenda are across the street from each other and they are by the same developer and he thinks it is in the interest of efficiency of time, he will read them into the record together and allow them to discuss them but we should keep in mind that they are separate projects and he would suggest at the end that the Board takes



separate actions on them.

9. **ZBA2022-032**  
**Merrimack Street, Tax Map 73, Lots 30A and 31 CBD Zoning District, Ward 3**

Scott Shaw, (Agent) proposes to construct a multi-family dwelling with 50 dwelling units on a lot with 17,670 SF of buildable land area where 26,500 SF is required and seeks a variance from section **8.04** Minimum Buildable Lot Area, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through March 1, 2022.

Scott Shaw said he is Vice President and Regional Project Partner in New England for Lincoln Avenue Capital and he works out of their regional office located in Massachusetts. Through his role at Lincoln Avenue Capital, he oversees their operations, their partnerships and their affordable developments. In several New England states and in particular, in New Hampshire, they are here tonight for density increases on these two sites. They are proposing one development however, because they are two lots, they have two applications. He said with him tonight is Brian Pratt, Senior Project Manager at Fuss and O'Neill who will describe in a bit more detail of their variance requests and also with him to his far right is Ted Seely with Lincoln Avenue Capital, who is their Senior Project Manager who will be working with him on this development.

Brian Pratt said as Scott mentioned, it is one project but it is on two different properties that are across the street from each other. He said he would go through these all together. He said he would go through the first one which is the property that is bound on three different sides by three streets, so it is Manchester Street to the north, Chestnut Street to the west and Merrimack Street to the south, which is the former Police Station which was converted to self-storage a number of years ago. As mentioned, the application for that property is to tear that down and build a new building with 100% affordable residential housing units, which is going to be a mix between studios, one-bedrooms and two-bedrooms.

Mr. Pratt said the lot size would allow them to have approximately 51 units in that property, but they are seeking a variance for up to 110 units. They are still doing the design developments so it may be a little bit less than that but they are just being conservative to ask to make sure that they were not shorting what they could get yield wise architecturally. The property will have parking beneath which will be somewhere in the 45 to 50 space range. Those will be accessed underneath the existing building. The building has a basement and it shares an access drive with the Fire Station, so they are going to use that same access drive that is between the two buildings to access the under building parking.

Mr. Pratt said as you know, the City is in need of housing, especially affordable housing, so this project being 100% affordable is a huge benefit to the City and the Master Plan, as he said, is pushing for additional housing, especially affordable. This is in line with the Master Plan and he believes there are some zoning changes forthcoming that will be increasing the density, so this application is in line with the future Zoning Ordinance changes.

Mr. Pratt said on the other side of the street, there will be a smaller building that will have approximately 50, or maybe a few less, units and that is on the existing parking lot that is on the north side of the City's Pine Street Parking lot. There are two lots that are being merged

together and one of them has a couple of easements on it and one is access to the IRS building and the other is a utility easement to the City that has some of the combined sewer system. That property will have a building with no underbuilding parking. That will just be a slab on grade. Both buildings are four stories and as far as parking for that facility, that is directly adjacent and abutting the Pine Street parking lot and they checked with the City and there are 50 parking permits available so there is adequate parking and the properties abut and there will be actual access close to that parking lot so if people need to park there will be some permits available for that.

Mr. Pratt said again, this is in the CBD so there is not parking requirements but they are providing almost 50% of the parking for the larger building and then there is plenty of parking in the Pine Street lot for the smaller building. With these being affordable, they really don't think that there is going to be a lot of need for parking. This is a very good location for walkability, for public transportation, it is near downtown, it is near the Arena and there is public transportation. They are going to provide some bike facilities and that is about it.

Mr. Pratt said the other variance request is for the Police Station lot and the City has an Ordinance for a site triangle at intersections and this is a signalized intersection, so it is really not as critical that that site is maintained. The building slightly encroaches into that site triangle.

Chairman Breault turned the hearing over to the Board.

Guy Guerra said the existing parking that they are going to be putting in is pretty much where the parking is now, but it is just going to be completely underneath the building accessing the ramp coming in, correct? Mr. Pratt said that was correct. He said the parking will be completely in the basement level. Mr. Guerra said it looks like you are putting in a flat area of green space on top of it. Mr. Pratt said there will be a courtyard. He said they haven't determined exactly what will be on that courtyard yet, but the ideal width of a building is somewhere in the 60' range and that leaves you the corridor in the center and then apartments on either side, so it wouldn't make sense to make a giant building. It would be a really tiny courtyard if they did a building on the whole block, so it made sense to do the building as a "U" shape. They are still figuring out what is going to be on that courtyard. There are some building code requirements for access and egress, so it is going to be some sort of courtyard and the hope is that it can be some sort of amenity space but they are still reviewing with the architects what can be put there.

Mr. Guerra said it looks like they've got some amenity space laid out in the first floor of that building as well. He said a leasing office, amenity and that kind of thing. Mr. Shaw said that is correct. They would have a leasing office, maintenance office for onsite property management staff. He said the courtyard as Mr. Pratt mentioned, they would really like to integrate a community area for both residents and the community at large and engage local artists to do some type of renderings or artist renderings in that area to be able to showcase their work. On the first floor, also amenities would include a wellness fitness center for the residents, a community kitchen for gatherings or events and a computer continuation lab. The area across the street, the smaller building, because there is the easement agreement, they would keep that parking lot to the left as a green space and create something that is consistent with the area in terms of green space or even a small walking area with benches. Mr. Guerra

said he likes the idea of the green space.

Chairman Breault turned the hearing over to the public and invited those in favor of this application to come forward.

**Jane Haigh** of the Manchester Housing Alliance said they would just like to say that they sincerely applaud the efforts of this company to finally bring affordable housing and show that it really is possible. They were very tired of developers saying they just can't do it so they thank the applicant and really hope that the Board approves the variances in order to make this happen.

**Peter Capano** said he is the new and first Chair of the Manchester Housing Commission. He said he has a short memo that he was going to read that will serve as an introduction to them as a commission. He said one of their other Commissioners, Kate Marquis is here as well. He said they also are in favor of this project. Mr. Capano read a letter from the Manchester Housing Commission into record.

*The Manchester Housing Commission was recently created with the purpose of recognizing, promoting, enhancing, encouraging, and developing a balanced and diverse supply of housing to meet the economic, social, and physical needs of the City of Manchester and its residents.*

*Two Commission members met with the applicant last Thursday to review the project goals. Based on this discussion, the variance applications, and a subsequent vote of the full Housing Commission on April 13<sup>th</sup>, we are issuing this letter of support to the ZBA for both applications.*

*The location of this project supports its affordability to residents by being close to downtown, workplaces, a grocery store, and bus services. Designed with amenities found in and beyond market rate apartments, if approved and constructed, the project would substantially improve the neighborhood while helping to fill the critical need for this type of housing. The project also supports the recommendations from the Mayor's Affordable Housing Task Force Report, Manchester's Master Plan, and will help meet the Governor's housing goals for the State of New Hampshire.*

*For these reasons, the Housing Commission strongly supports this application and respectfully requests the Zoning Board of Adjustment grant the applicant their variances.*

*Sincerely,  
Peter Capano, Chairman  
City of Manchester Housing Commission*

The Chairman invited those in opposition to this application or those with general comments to come forward. No one came forward to this request.

Mr. Landry said he had a letter from Mayor Joyce Craig and he read it into record.

***Dear Chairman Breault,***

***I am writing to express my strong support of ZBA2022-031 and 2022-032, to construct a multi-family dwelling on the corner of Merrimack and Chestnut Street in downtown Manchester.***

***If approved, this project would substantially improve the area, taking an underutilized building in the heart of downtown and creating a substantial amount of much-needed affordable housing units. This proposed project also supports the vision outlined in the City of Manchester's Master Plan and the recommendations made by the Mayor's Affordable Housing Task force.***

***In the past decade, rent prices in Manchester for a 2-bedroom apartment increased 25%, including a nearly 10% increase from 2020 to 2021. These skyrocketing costs came in conjunction with a shortage of available housing stock – resulting in critical challenges for housing affordable in Manchester and across New Hampshire.***

***Housing is a complicated and multifaceted issue – but through projects such as this, we can continue to deliver long-term solutions to these challenges while lifting up and improving various areas of our City.***

***I am proud to support this project and respectfully request the Zoning Board of Adjustment grant the variances proposed. Please reach out to me if you have any additional questions.***

***Sincerely,  
Joyce Craig, Mayor***

Mr. Landry said that was all he had. Chairman Breault turned the hearing back over to the Board.

Chairman Breault said he thinks both of these projects satisfy the five criteria. He thinks they are good for the City and he commends the applicant for bringing affordable housing to the City. He said we see many of these projects come before the Board that are all market rate and don't really benefit those people that really need it.

Vice Chairman Simoneau said he concurred with Chairman Breault and agrees that this does address the five criteria. He said it is nice to see the former Police Station be utilized. He knows we have used it in the past a couple of winters ago as Families in Transition used it as an emergency shelter which was good at that time, but we do need to do something with that building.

***Michael Simoneau made a motion to grant the following variance count for case ZBA2022-032, 8.04 Minimum Buildable Lot Area which was seconded by Guy Guerra.***

Yeas: Breault, Simoneau, Guerra, Powers  
Nays: None

Upon a unanimous vote, the variance was granted.

10. **ZBA2022-031**  
**351 Chestnut Street, CBD Zoning District, Ward 3**

Scott Shaw, (Agent) proposes to construct a multi-family dwelling with 110 dwelling units on a lot with 27,091 SF of buildable land area where 56,500 SF is required and with the southwest corner of the building within the required visual clearance area for corner lots and seeks a variance from sections **8.04** Minimum Buildable Lot Area and **8.27(E)** Visibility at Corners, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through March 25, 2022.

*See testimony above.*

*Michael Simoneau made a motion to grant the following variance counts for case ZBA2022-031, 8.04 Minimum Buildable Lot Area and 8.27(E) Visibility at Corners which was seconded by Greg Powers.*

Yeas: Breault, Simoneau, Guerra, Powers

Nays: None

Upon a unanimous vote, the variance was granted.

11. **ZBA2022-036**  
**77 Malvern Street, R-2 Zoning District, Ward 4**

Antonio Silva, (Agent) proposes to maintain the front landing and stairs that were expanded beyond the prior non-conforming layout with a 0' front yard setback and seeks a variance from section **6.03** Front Yard Setback, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through March 14, 2022.

Antonia Silva appeared with Reza Mirian who is the owner of the property. Mr. Silva said there is actually an error. He said there is no encroachment to the property on the street. It is actually set back almost 2'. The original deck that was there, the landing and the deck itself was within the 2' from the property line and it is still going to be there. It is just the only problem that the Building Department had is that Mr. Mirian hired somebody to do the deck over to redo it and they expanded the deck over 3'. He said they are going to cut it back to where it was originally and basically keep the same exact landing and everything the way it was. The only difference is Mr. Mirian also added a door to the front left side of the other door that is there and he is wanting to make the property so that there are two separate entrances into the dwelling, one that goes upstairs and one that goes downstairs so it keeps the tenants apart from each other. They are not changing anything else, they just basically need the variance to be able to put the door there because there is a stop work order on it because he didn't realize that the other contractor didn't have a license or whatever. Mr. Silver said he basically came in and told them he would pull the permits and the Inspector told him that he needed to be able to get a variance in order to do the other door and put the deck back the way it was because he had touched the property in the original form.

Chairman Breault turned the hearing over to the Board.

Chairman Breault said he took a look at this. He said it is an older home and it sits very close to the street and is a very tight little neighborhood. He said there is not much that they could have done different or could do different. To create two different entrances kind of needs something.

Chairman Breault turned the hearing over to the public and invited those in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Chairman Breault said he doesn't think this is contrary to public interest. He has a hardship and he thinks this satisfies the five criteria.

***Guy Guerra made a motion to grant the following variance count for case ZBA2022-036, 6.03 Front Yard Setback which was seconded by Greg Powers.***

Yeas: Breault, Simoneau, Guerra, Powers  
Nays: None

Upon a unanimous vote, the variance was granted.

12. **ZBA2022-033**  
**792 Hall Street and 798-800 Hall Street, R-2 Zoning District, Ward 2**

James Smith (Agent) proposes to subdivide a lot with two structures, where proposed Lot 16 will remain improved with a three-family dwelling with lot area of 2,860 SF where 6,500 SF is required, with 39.29' of lot frontage and width where 75' is required, with a side yard setback of 1.8' where 10' is required, with lot coverage of 75.6% where 75% is allowed and with a floor area ratio 1.5 where 0.5 is allowed, and where proposed Lot 16A will remain improved with a one-family dwelling with lot area of 2,846 SF 6,500 SF is required, with lot frontage and width of 40.71' where 75' is required, with a side yard setback of 2.9' where 10' is required, with a rear yard setback of 12.5' where 20' is required, with lot coverage of 70% where 60% is allowed, and with a floor area ratio of 0.56 where 0.5 is allowed and seeks a variance from sections **6.01** Minimum Buildable Lot Area, **6.02** Minimum Lot Frontage and Width (2 counts), **6.03(C)** Side Yard Setback, **6.04** Lot Coverage and **6.06** Floor Area Ratio at proposed Lot 16 and **6.01** Minimum Buildable Lot Area, **6.02** Minimum Lot Frontage and Width (2 counts), **6.03(C)** Side Yard Setback, **6.03(B)** Rear Yard Setback, **6.04** Lot Coverage and **6.06** Floor Area Ratio at proposed Lot 16A, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through March 18, 2022.

Brian Jones with Allen and Major Associates said James Smith is the land surveyor and he was not able to attend tonight. Mr. Jones said it is a subdivision of an existing lot that has two dwellings on it. In an attempt to make the lots conforming by separating the two dwellings onto their own lot, they introduce a number of non-conformities. He said he could read through the criteria, but, essentially, it is their opinion that the property has a hardship and it is unique that there are two dwellings on one lot.

Chairman Breault turned the hearing over to the Board.

Greg Powers said he lives right around the corner from this property and he always wondered why there were two houses on one lot. He said he thinks this is just the application of common sense to an uncommon situation. Chairman Breault said he agreed.

Chairman Breault turned the hearing over to the public and invited those in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Chairman Breault said it is unique, obviously, we don't see this very often. He thinks this satisfies a need to isolate the two on their own lots and it is not like you can create more space for it, it is what it is. They've created two parking fields, one for each. It is about the best you are going to be able to do with what you have.

Mr. Landry said he had a question and he did not intend for this to be the basis of any condition or anything, but he asked Mr. Jones if he knew what the owner's intent is. He says he sees that single-family as an opportunity for homeownership and owner occupied properties tend to look like owner occupied property. He asked if Mr. Jones if he knew if it would it be an investment property for someone, that single-family home or would it be an opportunity for someone to own that. Mr. Jones said he didn't know. He said he hasn't had have conversation with the owners. Mr. Landry said that is fair and it is not really in our purview, he was just curious. Mr. Jones said he could assume that the intent of separating the lots was so that they could be transferred.

Mr. Powers said he agreed. He said whatever the current owner's intentions are, separating the two lots allows them to be sold individually down the road.

*Guy Guerra made a motion to grant the following variance counts for case ZBA2022-033, 6.01 Minimum Buildable Lot Area, 6.02 Minimum Lot Frontage and Width (2 counts), 6.03(C) Side Yard Setback, 6.04 Lot Coverage and 6.06 Floor Area Ratio at proposed Lot 16 and 6.01 Minimum Buildable Lot Area, 6.02 Minimum Lot Frontage and Width (2 counts), 6.03(C) Side Yard Setback, 6.03(B) Rear Yard Setback, 6.04 Lot Coverage and 6.06 Floor Area Ratio at proposed Lot 16A which was seconded by Michael Simoneau.*

Yeas: Breault, Simoneau, Guerra, Powers  
Nays: None

Upon a unanimous vote, the variance was granted.

13. **ZBA2022-038**  
**39 Tougas Avenue, R-1B Zoning District, Ward 8**

Andrew Sullivan, Esq., (Agent) proposes to subdivide property located at 39 Tougas Avenue to create one new buildable lot, where the parent parcel Tax Map 819, Lot 15 will remain improved with a single family dwelling with a side yard setback of 4.3' where 10' is required and proposed new lot Tax Map 819, Lot 14 will have lot frontage and width of 46.08' where 75' is required and seeks a variance from sections **6.03** Side Yard Setback at Tax Map 819, Lot 15 and **6.02** Minimum Lot Frontage and Width (2 counts) at Tax Map 819, Lot 14, of the

Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through March 18, 2022.

*Michael Landry announced that case ZBA2022-038 which is property located at 39 Tougas Avenue will be tabled until the May 12, 2022 ZBA Meeting. He said if anyone is here for that case, it will be heard on May 12, 2022 at 6:00 in the Chambers and no further notice will be provided.*

14. **ZBA2022-037**  
**149 Exchange Avenue, R-1A Zoning District, Ward 1**

David Marchand proposes to maintain a shed within 4' of the side lot line in the rear yard, store a 8' x 30' camper trailer within the 20' side yard setback, create one parking space partially located within the front yard and within 4' of the side lot line and another parking space within 4' of a building and seeks a variance from sections **8.29(A)3** Accessory Structures and Uses, **10.09(B)** Parking Setbacks (3 counts) and **8.29(A)2** Accessory Structures and Uses, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through March 22, 2022.

David Marchand said he is the property owner at 149 Exchange Avenue and has been residing at this location since July of 2009. He said he recently married and now they have multiple vehicles on the property and they purchased a camper last year, so what he is looking to do is be able to park all their vehicles on the property and store the camper. He said he has tried to condense them as much as he could on the side property where he has access because the other side of his house there is not sufficient space and there is no access to the rear as his house is set back on the property. He said between the attached garage and the shed, there really is no access to be able to store a camper in that area.

Chairman Breault turned the hearing over to the Board. There were no questions or comments from the Board and the Chairman turned the hearing over to the public and invited those in favor of this application to come forward. No one came forward to this request. The Chairman invited those in opposition to this application to come forward.

**Patrice Corson** said she and her husband own the property at 153 Exchange Avenue which directly abuts the 149 Exchange Avenue property. She said they are against the parking variances since the parking was expanded last summer and their property line has been totally disregarded. She said the front property marker was removed by the workers that were installing the driveway expansion and since the driveway has been expanded, they have a jeep that is frequently parked, overhanging their property line making the access to the back of the jeep solely from their property and as well as the stairs extended from the motor home and the awning onto their property. She said they are currently having their land surveyed and have been informed as of last Friday by the surveyors that now the back property marker has been removed from the ground, which brings us to the variance for the shed overhang. She said yes, it was installed by the previous owner and was supposed to be temporary and removed before the property was sold. Since it wasn't, they did in fact let it slide, however, with the recent blatant disregard for their property, the property line, they are opposed and prefer that the variance not go through for that as well. She said she does have four pictures that show their concerns about the use of the property. She distributed the photos to the Board. Mrs.



Corson said she also failed to mention that the installation of this driveway, which she knows isn't part of the variance, has also caused a drainage issue that is eroding their driveway.

Chairman Breault addressed Mr. Marchand and said this is an older survey that he submitted. Mr. Marchand said he obtained it from the City. Chairman Breault said it is dated 1988.

Chairman Breault invited those with general comments to come forward. No one came forward to this request and the Chairman asked Mr. Marchand if he would like to comment on the previous testimony.

Mr. Marchand said in one of the photos there is a picture showing the cobblestone going to the back of the property and there is a metal post that is about 15" from the cobblestone liner there. He said based on the recent survey work that they had, a marker was identified at the front of the property and they have a photo that identifies that location and that indicates that the property line is actually 4' further than towards their driveway at the front of the property. He said he doesn't know where the property marker is in the back. Regarding the overhang of the shed, he and his neighbors have been very cordial for the first twelve years of their relationship as neighbors and have shared the same lawnmower stored in that overhang area and have allowed storage of yard tools in this overhang area. He said he doesn't know if he is actually over the property line based on the indication of the photos he had. He asked if he could submit them. Mr. Marchand said the camper has been staged there for the winter and he has no issue if that has to move over a few feet so it doesn't overhang on the property and if the back tire of the jeep is overhanging on the property, he will move it forward.

Chairman Breault turned the hearing back over to the Board.

Chairman Breault said there is a question of a hand drawn plan and in past requests where things are this tight and the Board has requested a current survey. He said it is not uncommon and he thinks in this case, we should table this and look for more information as to where exactly that boundary is, particularly because there is a claim that it could be in question.

Guy Guerra asked if Mr. Marchand needed a permit to keep this camper there. Mr. Landry said not necessarily a permit, but it needs to be in an area that conforms with the Zoning Ordinance and it does not at this time. Chairman Breault said it can't be within 20' of the property line.

Mr. Marchand said his original submission indicated within 4' of the property line and that was based on what he was informed was potentially the property line. With this new marking, it may not be 4', it may be more than 4'. He said he didn't know.

Guy Guerra asked Mr. Marchand if he paved to the end of his property line where the trailer is sitting now. He said he paved to the edge of the shed. Chairman Breault said which based on the overhang is probably the property line. Mr. Guerra said then he paved to the property line. Mr. Guerra said he doesn't like that trailer there. Chairman Breault said he thinks tabling this for an actual survey for more information is in order. He said as it stands, with the property line in question and not having a current drawing but something from 1988 that has had drawings added to it is not an actual survey. He said unless someone on the Board feels differently, he would entertain a motion to table this case.

Guy Guerra said he is curious as to what that would change. Chairman Breault said it would identify exactly where the property line is and then it gives the Board more information on how to react to the request. Mr. Landry addressed Mr. Guerra and said he wouldn't want to approve a variance if there is an encroachment and we don't know.

***Michael Simoneau made a motion to table case ZBA2022-037 to the May 10, 2022 ZBA Meeting for a certified plot plan which was seconded by Guy Guerra.***

Yeas: Breault, Simoneau, Guerra, Powers

Nays: None

Upon a unanimous vote, the variance was tabled.

Chairman Breault addressed Mr. Marchand and said the Board is basically looking for a survey plan. He advised Mr. Marchand to try and get it for the next hearing and if he couldn't for some reason, then he needed to contact staff and the Board has extended that in the past where people had difficulty getting a surveyor to act in a month.

***Mr. Landry said this case will be heard on May 12, 2022 at 6 pm in the Chambers and no further notice would be going out to abutters.***

15. **ZBA2022-043**  
**55 Bridge Street, CBD Zoning District, Ward 3**

Ted Jarvis, (Agent) proposes to change one 5' H x 14' W static wall sign granted by variance for a business without sign frontage to a 5' H x 14' W electronic message center sign and seeks a variance from section **9.09(A)2** Signs, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through March 23, 2022.

Ted Jarvis said he was with Spectrum Signs and Graphics here in Manchester. He said he was before this Board a couple months back and this Board had granted a variance for two signs on the east side and west side of the building at 55 Bridge Street. At that review with his client, they felt that on the west side, it would be better utilized on that space of the building to fabricate and install an electronic message center to allow more medical emergency and health alert notifications and have changeable copy on there. The sign would stay exactly the way he originally proposed square footage wise, other than just having a changeable copy on there.

Chairman Breault turned the hearing over to the Board. There were no questions or comments from the Board and the Chairman turned the hearing over to the public and invited those in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Guy Guerra said so instead of being a standard regular plain old sign Mr. Jarvis is putting an electronic sign that can change messages and that kind of thing. Mr. Jarvis said yes, for messages for medical and emergency. Mr. Guerra said whenever he hears this he gets nervous

and he thinks about the South Willow Street sign that used to be there when you came off the ramp from I-293 and you run into the building where Aspen Dental is. He said that one was just blatant. He said that one was ridiculously bright. Mr. Jarvis said you can control the brightness of those, so it is not going to be in your face. It is really for informational purposes and for anything that is going on in the medical field.

Vice Chairman Simoneau said that was going to be one of his questions because even though it is not in a residential area, the building right across the street just got conditional approval for apartments. He said to have something lit up at 2:00 am, shining into your living room or kitchen or bedroom is kind of frustrating. That was going to be his question about the sign on the west side of the building. Mr. Jarvis said that will be on the west side which will be the facing toward the Farley White building. Chairman Breault said it is facing the parking lot. Mr. Jarvis said the parking garage, exactly. Chairman Breault asked Mr. Jarvis if there was any consideration to the hours of the sign being on. He asked if it was going to be on 24/7, or is it something that is going to shut off at 11:00 pm so that if there were people in the residences across the street, they wouldn't have this light. Mr. Jarvis said they certainly could propose to put a timer on the sign. Chairman Breault said there really is no one going to the Express Med at 11:00 pm. Mr. Guerra asked if it was a 24 hour Express Med, or does it have hours. Mr. Jarvis said he doesn't know their exact hours of operation off the top of his head, but he knows it is not 24/7.

Chairman Breault said the sign is there for advertisement so he doesn't think going to 8:00 pm or 9:00 pm would be adverse to the people across the street. He said the Board could limit it to 10:00 pm or 11:00 pm or something like that and on by 6:00 am or 7:00 am, whenever they open. He said he thinks that is reasonable. He said because of where they are located, signage is important. It is a hardship to find that location unless you are right on top of it. He said he sees a need for signage and he thinks this would help his client to get people to its facility.

Vice Chairman Simoneau said he believes this is within the five criteria.

***Michael Simoneau made a motion to grant the following variance count for case ZBA2022-043, 9.09(A)2 Signs with the westbound sign limited from 6:00 am to 11:00 pm which was seconded by Guy Guerra***

Yeas: Breault, Simoneau, Guerra, Powers

Nays: None

Upon a unanimous vote, the variance was granted.

16. **ZBA2022-044**  
**13 Laval Street, R-2 Zoning District, Ward 11**

Emily Saa, (Agent) proposes to convert a barber shop occupying 862 SF, granted by variance case 104-20-1998, to a coffee shop with up to 15 seats and seeks a variance from section **5.10(G)4** Restaurant up to 5,000 SF, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through March 25, 2022.

Michael Landry advised the Board that there was a prior variance application that was denied, however it was denied many years ago in 1997 and that was to convert a fish market to a pizza restaurant. He said a pizza restaurant and a coffee shop are similar uses, however, if the Board finds that the use is materially different or there has been enough change over time to the neighborhood and that a restaurant at this time is appropriate, then the Board should proceed and deliberate.

Emily Saa said she is requesting relief from the Zoning Ordinance at 13 Laval Street for the purpose of opening a lovely, inviting coffee shop. She said this same location was open for business in the past for two barber shops and prior to that, a butcher shop. As there have been business operations there before, she feels having a coffee shop there would not disrupt the residential area in any way. She is asking for a variance so she can fulfill this dream of owning a business as a minority and single mom and execute the vision she has for this location for the purpose to go beyond just a good cup of Columbian coffee. She wants this place to become a hub of inspiration and creativity to radiate hope and a sense of belonging for all ages, ethnicities and backgrounds. She said she believes Mi Vida Coffee would be a very positive addition to this area. She said there is a school 700 yards away and teachers need coffee and kids need a safe place after school when they are walking home. Since it is a residential area, she has seen lots of elderly people walking down the street and it would be good for them to have a place to stop by, relax and breathe and she is just full of inspiration to really bring this and radiate it in Manchester and it would be a light.

Chairman Breault turned the hearing over to the Board.

Guy Guerra asked if there would be any food. Ms. Saa said no. Mr. Guerra asked if there would be bakery stuff such as donuts. Ms. Saa said not yet and store bought things she will bring in, but she believes it just takes getting more approvals for this if she does food. So she is just sticking with the coffee and once she gets the coffee down, which is 100% authentic Columbian coffee which she already has, and it is delicious.

Chairman Breault turned the hearing over to the public and invited those in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Chairman Breault asked Ms. Saa what the hours of operation would be. Ms. Saa said 7:00 am to 4:00 pm is what she is thinking, from Monday to Saturday and then possibly from 5:00 pm to 8:00 pm on either Saturday or Sunday just to have a difference and to allow for a music evening or something like that. She said she is still reviewing that with her business partner, but it would most likely be 7:00 am to 4:00 pm on weekdays.

Guy Guerra asked Mr. Landry if it would be a different permitting process to bring music in. Mr. Landry said he is envisioning a single guy on a guitar. Chairman Breault said inside. Mr. Guerra said they only have 15'. Mr. Landry said if it is just incidental with some mild music, it would be incidental. If it turns into a rock club and she has posters all around town and selling tickets for \$75.00, that is a different story. Ms. Saa said she loves music so she will most likely be also performing and it is just a very homey kind of environment.

Chairman Breault said Ms. Saa mentioned a school within 700 yards and he asked what

school she was referring to. Ms. Saa said it is the Brown School. Chairman Breault said that is now elderly housing. Ms. Saa said she has seen children playing outside behind some sort of school, so she knows that there is something. Chairman Breault said there is St. Peter's daycare. Ms. Saa said she has seen quite a few kids walking at least from the high school as she knows there is a high school nearby. Vice Chairman Simoneau said West High and then you have Junior High down what they call the flats, the Parkside and Gossler Park. Chairman Breault said he and Vice Chairman Simoneau grew up in the neighborhood.

Chairman Breault said with the limited hours, he doesn't think this is adverse. Mr. Guerra asked what the hours were. Ms. Saa said 7:00 am to 4:00 pm Monday through Saturday and then 5:00 pm to 8:00 pm Saturday and Sunday. Ms. Saa said either one of those days and probably not both of them.

***Guy Guerra made a motion to grant the following variance count for case ZBA2022-044, 5.10(G)4 Restaurant up to 5,000 SF which with hours of 7:00 am to 4:00 pm, Monday through Friday and then 5:00 pm to 8:00 pm on Saturday and Sunday was seconded by Michael Simoneau.***

Yeas: Breault, Simoneau, Guerra, Powers  
Nays: None

Upon a unanimous vote, the variance was granted.

17     **ZBA2022-046**  
**83 Lilac Court, R-1B Zoning District, Ward 8**

Steven Smith, (Agent) proposes to maintain a 12' x 24' shed in the rear yard with a 2' setback from the rear lot line, where 4' is required and seeks a variance from section **8.29(A)3** Accessory Structures and Uses, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through March 25, 2022.

Steven Smith with EPR Construction said unfortunately, due to weather conditions by the time they marked where the lines were, it moved 2' back so when the approval came back to the office, it said approved with exception, unable to verify the measurements. He said when he saw the approval he didn't see the devil in the details. The walls were poured and at that time, the Building Inspector verified the measurements. Unfortunately, the mistake was not caught until after the construction of the foundation. He said the back of the building abuts a closed off access road so there is nothing in the back and both sides are fine.

Chairman Breault turned the hearing over to the Board.

Chairman Breault asked Mr. Smith if the access road takes them to the sewer easement. Mr. Smith said that access road in the back is where the back of the building abuts, so instead of having the 4' that they needed, they only have 2' right now. He said they are just asking for that 2' variance.

Chairman Breault said the foundation is in place and it was an error in judgement or error in measurement. Obviously, it would be a hardship to have to move that foundation. He said it is

a back property line that abuts a wooded area. It is not impacting anybody.

Chairman Breault turned the hearing over to the public and invited those in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Vice Chairman Simoneau said he was just going to comment that what they are trying to do here is rectify and correct an issue, so he is ok with this. He said he feels this does meet the five criteria.

*Michael Simoneau made a motion to grant the following variance count for case ZBA2022-046, 8.29(A)3 Accessory Structures and Uses, which was seconded by Guy Guerra.*

Yeas: Breault, Simoneau, Guerra, Powers

Nays: None

Upon a unanimous vote, the variance was granted.

18. **ZBA2022-045**  
**80 Parcels Between Smyth Road and Radburn Street, R-1A Zoning District, Ward 2**

John Cronin, (Agent), proposes to amend the variance granted in case ZBA2021-122 on November 10, 2021 which granted a variance to allow 305 multi-family units, where the current request proposes to add two additional model dwelling units resulting in 307 dwelling units, to create 35 parking spaces and one loading space in the front yard, to construct a maintenance shed in the front yard, to install a transformer in the front yard, to construct retaining walls greater than 4' in the front yard, to construct a retaining wall greater than 4' within 10' of the property line and to erect three free standing signs on the property where one sign is allowed and seeks a variance from sections **5.10(A)6** Multi-Family Dwellings, **10.09(B)** Parking Setbacks (36 counts), **8.29(A)1** Accessory Structures and Uses (2 counts), **8.27(B)** Fences and Walls Height (3 counts), **8.27(D)** Fences and Walls setback and **9.08(A)2** Signs (2 counts), of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through March 25, 2022.

Attorney John Cronin of Cronin, Bisson and Zalinsky said it is his privilege to represent the applicant here this evening, Gregg Mikolaities, who is the owner's representative and is here with us tonight. He said Brian Jones from Allen Major, who is the Project Engineer, is seated to his right. He said this particular project came before the Board for multiple meetings in the fall concluding with an approval finding positively on all criteria back in November of 2021. Prior to the submission at that time, the project plans were submitted that showed the parking and it is substantially the same configuration as they are. He said they did a zoning review and went forward with the use variance of the impression that that was contemplated in the approval that the Board granted previously. Further work was done, of course, after the variance was granted with the site engineering, which resulted in the few retaining walls that he will talk about in a few minutes and some wall signs at the entrances.

Attorney Cronin said during that conversation with Planning, a subsequent zoning review was

done and they raised some issues with respect to parking in front and side lots which granted, this is an unusual parcel in an R-2 zone being approximately 40 acres. He said you don't see that too often. It is a little unusual and they thought rather than have a debate about it with the Planning Staff, they were going to have to come here anyway for the retaining walls, they would include them as counts and follow the path of least resistance.

Attorney Cronin referred to a plan in their packets and asked if they all had it. He said he knows it is a little busy, but he thinks he can take the Board Members through it and simplify it first so that we understand what is going on here. He said this particular site, if you see in the color up that should be in your packet as well, is well protected and is isolated off the road. One of the things during the initial variance proceeding was the protection and the design to preserve the wetlands and not impact them. They went back prior to this meeting this evening to the Conservation Commission last week and they submitted a letter and they are pleased with the work that has been done to protect the wetlands and to minimize any particular impacts.

Attorney Cronin said for the easy things first in terms of the retaining walls, if you look at the front, you will see the letter characters which show at the front entrance. He said there is a section there which he believes is one at "H". He said they are cut walls so you won't see them from the street. Their purpose is to preserve the trees along the street which they represented they would do to protect them and give them that buffer. He said if you brought the grade up and matched it, you would bring in a lot of fill which would kill the trees. Those are designed to maintain that tree cover in its natural state. He said you dig out the trees or cut them, bring some fill in and plant new trees but it would take more than his lifetime to get them to the maturity where they are today. There is a good purpose for them and it fits what they have represented throughout the process.

Attorney Cronin said if you go out back at "J", there is another retaining wall there. He said generally 4' retaining walls are allowed but this one in some areas approaches 5'. It is de minimis and won't be seen by anyone and is basically designed to catch the grades and to minimize the earth disturbance there. Part of that variance is also that it is within 4' of the property line, so that is why that is being called out. Those are the variance pieces.

Attorney Cronin said with respect to the parking, as you see how the parking is designed, it is pretty typical for a project of this size and how it is laid out. You have the two barrel entrances that come in and exits. One of the main items in this particular project was the second public street servicing this property and extending out to Smyth Road Extension. During the process, the applicant and his team, particularly Mr. Mikolaities, met with the Planning Staff and they kept Alderman Stewart, who took an interest in this as it is in his district, of what was going on and one of the things that was imperative was that this become a public street and although it is millions of dollars in extra cost, the applicant has throughout the process said that they would do that and they remain committed to do that.

Attorney Cronin said when you look at the way the design is and the way the parking is, it is all pretty well protected. It is laid out the way you would typically see it, but you get to the Ordinance and looking at this Ordinance or variations of it for 35 or so years, he was kind of stricken by the call out here. He said they have had a number of cases and he is sure the Board Members have heard them where they have parking in the R-2 zone where someone is

in the front yard setback in the driveway and that seems to be a topic of debate or amendment for the Ordinance every time it comes out. Typically, you are looking at maybe a 30' driveway and a 30' or 20' front setback and people have teenagers that are driving and they stack them up in the driveway and a neighbor calls and says that is a zoning violation. That is not the case here. They meet and exceed greatly, all of the required setbacks. There is not going to be anything that violates the setbacks here.

Attorney Cronin said if you look at the definition of front yard, it is the distance from the right of way to the principal building. If you put your building hundreds of feet back, which is what was wanted here, right? People wanted to have this pushed back on the site so it is protected and not visible. That whole distance becomes a front yard per se, where parking is prohibited. It is the same with the sides and rear and granted, if this were a traditional 7,500 SF R-2 lot, it makes all the sense in the world. He said when you look at it from this configuration it makes no sense at all. He said he's not even sure that a variance is required for that because he thinks it was captured in the original approval. He said we looked at it and talked about it, it was laid out and the Board voted to approve the use, but again, to make it complete and satisfy Planning, they put it in as a request. The layout, again, is pretty traditional. It works and is sheltered and all of the setbacks are maintained.

Attorney Cronin said the other one, as far as in that "extended front yard" so, the front yard that is beyond the setback, they have a club house and he said he thinks we can debate whether that is accessory or not if they had to. Of a complex of this size, it would be pretty essential and typical to have a clubhouse and pool facility to service the residents and he thinks amenities of this type and kind are preferred. He said there is also, if you look at the plan at "G", there is a small building and that was added recently. That wasn't on the plan set that they initially presented to the Board and Mr. Jones and his team and the applicant thought it would be good to have a structure to keep parking lot maintenance and yard equipment. Again, it is outside the setbacks which you can see on the checkered line and they believe that it meets all of the criteria.

The last issue that is before the Board is the signs. The Ordinance allows you to have one sign, but if you look at those two entrances and you see the curbs there, they are going to do a nice stone façade and you have probably seen in some developments where you enter into them, they have it and the sign is embedded with the project name which hasn't been developed yet. It is just to identify the property at the entrances. It is going to meet the square footage requirements and they are not looking for any relief in terms of size. They are not looking for any relief in terms of height, so they will comply with the Ordinance sign requirements. Again, in an R-2 zone, you could say typically one sign would be enough when you are looking at the size of the typical lot. When you are looking at a 40 acre lot, to have signs, three of them that are 20 SF or less, they don't think is a very big ask. He said like he did in the earlier case, he will waive the reading of the five criteria.

Chairman Breault turned the hearing over to the Board. There were no questions or comments from the Board and the Chairman turned the hearing over to the public and invited those in favor of this application to come forward. No one came forward to this request and the Chairman invited those in opposition to this application to come forward.

**Brian Fitzpatrick** from 920 Smyth Road said he was just reading the application and also on



this new request, it says two additional units and that wasn't mentioned here. It says going from 305 resulting in 307 dwelling units. He said that is two additional units to the complex which wasn't mentioned and wasn't approved from the Board. Mr. Fitzpatrick said he was told that that was a mistake. Attorney Cronin said those were withdrawn. Mr. Fitzpatrick said it is not withdrawn here. Chairman Breault said it has been withdrawn since the application was submitted. Attorney Cronin said it was initially in the application related to two showrooms. He said it is on the application. He said they are now not seeking that and he probably should have stated it in his remarks. They are not looking to increase the unit count at all. Chairman Breault said the Board could do that by stipulation so that is not a problem. Mr. Fitzpatrick said it is included. Chairman Breault said Attorney Cronin is saying it is not so he is representing that it is not and it is still 305 units. Mr. Fitzpatrick said that was very concerning and is kind of a big oversight.

Mr. Fitzpatrick said he has a few comments but most of them are going to have to be addressed by the Zoning Board because they are quite substantial. He said he believes this misinformation is quite a big deal to him. He said it was presented, posted and a lot of people read this, like himself and said oh my God, they are asking for more units. That is why he was wondering since this has been changed, actually to him, drastically, he thinks the meeting should be rescheduled for another date. They should come prepared here and this should be posted to the public and to the Board because it is a big deal. We should be given the correct information and the public should be given the correct information and to tell you the truth, he thinks this meeting should be rescheduled and this should be posted to the public correctly and scheduled for another date.

Mr. Fitzpatrick said a lot was said about work force housing and he believes that the applicant agreed to 10 units and that is a little over 3% which is a small percentage and at the meeting, one of the Board Members asked Attorney Cronin if he could do a little better. He said he believes Attorney Cronin's comments were "we will work on that". He said he doesn't know if he has worked on it or not as nothing was said about it tonight. He said 10 units out of 305 is very miniscule. Just from his reading, it should be 10% to 20%. That is up to the Board and he didn't know if Attorney Cronin looked into that or not.

Mr. Fitzpatrick said another thing that is probably going to have to be taken up by the Zoning Board is property values. Just because people cannot see the property, doesn't mean the values won't be affected by the development. He said if you take an airport, you don't have to see the airport to know that your property values are going to go down and there are other circumstances. He thinks the property values will be impacted and he thinks their letter from the real estate agent was pretty vague if you read it closely. It is pretty general. Like he said, he held a real estate principal broker's license for 26 years and his home appraisal was a bigger report than that. He said he just doesn't know why you would have a real estate agent, a sales person, do that report. That is just his opinion and he thinks someone spending this kind of money would go out and have a real estate commercial appraiser and do a complete report on it, but that is a real estate person's opinion.

Chairman Breault invited those with general comments to come forward. No one came forward to this request and the Chairman invited Attorney Cronin to address the concerns of Mr. Fitzpatrick.

Attorney Cronin said he thinks he should clarify the unit count. He said when the planning design was done, the applicant was going to build out two units in the building and furnish them and set them up as models for the absorption period but they were never intended to stay permanently. In discussions with Planning, they said if you are going to do that, you should go get a variance for two more units, even though temporarily. He said they discussed it and said it makes more sense just to take two of the existing ones, furnish them and when they are done, they can either rent them furnished or take them out. That was an easy fix to that and he thought they had communicated it, but maybe they didn't and whatever the case is, the gentleman that commented should be comforted that that is not the case. They are not seeking any additional units.

Attorney Cronin said with respect to value, that issue has already been decided with respect to the global project. That project is going to go forward and he thinks that anyone can see that these particular items would have no impact on any of the adjacent properties. They are far removed from everything and they are really done to enhance the project and to provide protection to people around it and to make sure that that front screening is there and signage is a non-issue. If you look at it, your abutter to the west here is going to be the northbound barrel of I-93, so it is not like a typical R-2 zone where the folks across the street might have some issues. He doesn't think that is an issue. With respect to work force housing, the gentleman is correct. They committed to ten and they are still doing that. They have been having discussions and there will be discussions with the Planning Board to see if they can do a bit better.

Chairman Breault turned the hearing back over to the Board.

Chairman Breault said the stipulation in the original variance would carry forward. Attorney Cronin said they are not looking to waive any of the conditions of approval, it is just to basically capture these housekeeping matters. He said Alderman Stewart was informed of what they were going forward with tonight and he sent an email that gave him permission to tell the Board what he said. He said basically, he remains vigilant about the traffic issues and intends to be engaged at the Planning Board level and he supports the requests here this evening. Chairman Breault said the applicant is basically seeking an amendment to satisfy some of these design criteria that they have to incorporate into the plan. Attorney Cronin said he would call them housekeeping issues that he thinks just makes everyone feel better that they are buttoned up and tightened and they are scheduled to go before the Planning Board in a couple of weeks. He said they put that off so that they could come here and he expects that the Planning Board, as they always do, will be very vigilant in this project and will test it and make sure that it is done right.

Chairman Breault asked Attorney Cronin if he was looking for the two year time period to carry forward from this date. Attorney Cronin said he thinks we can tie it into the original one for November so they run parallel. He said he doesn't think it makes any sense to have them at different times. He said Mr. Landry is looking at him like it may cause a regulatory incident. Mr. Landry said he just wants to understand. He asked Attorney Cronin if he was looking to have both of them be bound from two years from last November or two years from tonight. He said he is just asking and he thinks that is what Chairman Breault was getting at. Attorney Cronin said he didn't talk to the client about it. He then spoke with his client and said let's do them separate so they can do tonight for two years and keep the other one as it is.

Chairman Breault said he didn't know that that makes sense. Attorney Cronin said he thinks they are flexible on it. Mr. Landry said if the applicant knows that they are going to be shovel ready as soon as they are done with Planning, or at least another season, then that doesn't sound like a risk, however, if things are going to drag on, just know that there is a four month gap between the two approvals and they could fall in between them.

Attorney Cronin asked Mr. Mikolaities to come forward just so they could clarify this. After consulting with Mr. Mikolaities, Attorney Cronin said if the Board wants to make them consistent, they could go two years from November.

Chairman Breault said he didn't see any issue with the requests and changes. He said they already agreed to make it from the last two year period and the stipulations.

***Guy Guerra made a motion to grant the following variance counts for case ZBA2022-045, 10.09(B) Parking Setbacks (36 counts), 8.29(A)1 Accessory Structures and Uses (2 counts), 8.27(B) Fences and Walls Height (3 counts), 8.27(D) Fences and Walls Setback and 9.08(A)2 Signs (2 counts), with the stipulation that the changes tonight will be fall in with the November 10, 2021 two year period, which was seconded by Michael Simoneau.***

Yeas: Breault, Simoneau, Guerra, Powers

Nays: None

Upon a unanimous vote, the variance was granted.

19. **ZBA2022-030**  
**46 Myrtle Street, R-3 Zoning District, Ward 3**

Paul Bourbeau, (Agent) proposes to redevelop the property with a three-family dwelling, with one parking space less than 4' from the building, with a parallel parking space where maneuverability out of the parking space cannot be accomplished in the direction of travel and without the required 10' landscape buffer along the lot line with 52 Myrtle Street and seeks a variance from sections **10.09(B) Parking Setbacks, 10.07(D) Parking Maneuvering, 10.07(K)4 Parking Screening and 10.07(G) Landscaping**, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through March 28, 2022.

Paul Bourbeau said he is an owner and primary architect for PHB Architects in Manchester, New Hampshire. He said he is representing Jared Sullivan this evening regarding his property at 46 Myrtle Street. He said they endeavored to try and propose a new building on this existing lot which currently houses a single-family residence as well as a multi-car garage in the rear. What they tried to do was to bring the new building, the proposed building into compliance with all of the current zoning requirements, including the setbacks. The only issue that they had was the one handicap parking space, to make accommodations for it. There wasn't a lot of room left on the property to provide a reasonable space, so the only solution that seemed to work was a parallel space adjacent to the property, near the front of the property. The condition of that particular parking space is that it is within the 10' setback. They can't get a landscape buffer around it and they have to actually parallel park in that space, so you can't simply pull into it and then continue to move on and pull out. It doesn't meet the current requirement for that parking space.

Mr. Bourbeau said that is the only relief they are seeking tonight is to make that parking space work in the front of the building. He said they removed a pretty good sized structure in the back so they actually created a little bit more space in terms of area space in the back of the building and as you can see, they are actually sharing a driveway with the adjacent property. The space between the buildings is rather tight and he thinks this proposal actually makes for a better layout for not only the current property owner, but also the adjacent properties.

Chairman Breault turned the hearing over to the Board.

Chairman Breault said this single-family home is sandwiched in an area of all multi-family homes on both sides of the street with a commercial use behind it. He said it is kind of like they underutilized this piece of property even though it is probably not the best use.

Chairman Breault turned the hearing over to the public and invited those in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Chairman Breault said he thinks they did a pretty good job of trying to satisfying all of the requirements and putting in a three-story building there in kind of a small footprint, but they are going to make it happen.

Mr. Landry addressed Mr. Bourbeau and said there is hatching, if we are just looking down at the plan, on the left side of the lot and the top of the lot. There is some hatching there and then there is some hatching around the handicap parking space. He asked Mr. Bourbeau if he could tell him what those hatch marks mean. Mr. Bourbeau said he probably should have used a different hatch, but the hatch along the back property line and side on the west side is just the 10' setback. Mr. Landry asked if it was going to be grass. Mr. Bourbeau said yes, it is going to be grass landscaped. He said it is not intended to be pavement or anything. It is all landscape buffer. Mr. Landry said he is assuming that it is going to be an asphalt or concrete walk around the handicap spot. Mr. Bourbeau said that is correct. He said that's just striping for the handicap egress for the vehicle. He said they have an 8' wide aisle that is required for that handicap spot and that is what they are providing.

Mr. Landry said one last thing that is not really before this Board but he is just curious. He said they have a shared driveway there and asked Mr. Bourbeau if they already talked to the neighbors about this and there will be an understanding on, or are they just going to rely on the easement that is on record and figure it out. Mr. Bourbeau said they haven't spoken to the neighbors. He said it is a multi-family unit next door and they seem to have been sharing this driveway for years. He said he didn't know when it was actually deeded, but it does show up on the deed that was submitted with the package. He is not aware of any complaints from either the current owners or the adjacent property owners. Mr. Landry said he is not trying to raise any issue, he is just curious if they had that discussion.

Chairman Breault said he thinks this is a good use of an underutilized property nestled amongst many multi-families and a substantial one right in front of it on the Elm Street side that the Board granted variances for in the past. Mr. Guerra said he is glad that he is putting in

some grass.

Greg Powers said he thinks this project does meet the five criteria.

***Greg Powers made a motion to grant the following variance counts for case ZBA2022-030, 10.09(B) Parking Setbacks, 10.07(D) Parking Maneuvering, 10.07(K)4 Parking Screening and 10.07(G) Landscaping, which was seconded by Guy Guerra.***

Yeas: Breault, Simoneau, Guerra, Powers

Nays: None

Upon a unanimous vote, the variance was granted.

20. **ZBA2022-047**  
**21 Batchelder Avenue, R-3 Zoning District, Ward 7**

John Nichol, proposes to maintain a deck with a 2' side yard setback where 10' is required and a shed 0' from the principal structure where 4' is required and seeks a variance from sections **6.03** Side Yard Setback and **8.29(A)3** Accessory Structures and Uses, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through March 28, 2022.

John Nichol of 21 Batchelder Avenue said they bought this house back in December and moved in in January recognizing that the fence needed to be repaired. He said it was an old wooden fence that was falling down. When they went for a permit to replace the fence, it was brought to their attention that the deck extension that was put onto the house sometime around 2013 and it doesn't meet code. The shed is 4' from the property line but the deck was built 2' past the shed. It is still within the property line, but it encroaches that 4' by 2' and it was built only about 2" to 3" away from the shed itself, so it doesn't keep that 10' setback from either of those things. He said they were just hoping that they could maintain the deck and they just bought the house and they are hoping that they won't have to tear it down

Chairman Breault turned the hearing over to the Board.

Chairman Breault said he kind of peeked through the fence when he went there and saw that that deck is literally on the ground. Mr. Nichol said yes, it has been there since 2013. Chairman Breault said but it is literally on the ground. Mr. Nichol said yes, it is a 6'6" deck. Chairman Breault said it is literally a platform. Mr. Nichol said it is a platform. Chairman Breault said it is more of a patio. He said he drove the neighborhood and witnessed an awful lot of sheds in that neighborhood and properties that are well within the setbacks and he doesn't think this is out of character with the neighborhood. He said the hardship is that they would have to lose part of their deck and move the shed.

Greg Powers said he drove by as well and said if Mr. Nichol is standing on the deck looking at his neighbor, he is staring at the side of the garage, right? Mr. Nichol said that is correct. Chairman Breault said it is not like it is affecting many people.

Chairman Breault turned the hearing over to the public and invited those in favor of or in

opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

***Guy Guerra made a motion to grant the following variance counts for case ZBA2022-047, 6.03 Side Yard Setback and 8.29(A)3 Accessory Structures and Uses, which was seconded by Michael Simoneau.***

Yeas: Breault, Simoneau, Guerra, Powers

Nays: None

Upon a unanimous vote, the variance was granted.

21. **ZBA2022-040**  
**48 Brook Street, R-3 Zoning District, Ward 3**

Samuel Hammerman proposes to convert existing offices and beauty salon uses to nine new dwelling units resulting in a total of ten dwelling units on a lot with 10,543 SF where 15,500 SF is required, construct stairs with a 1' side yard setback where 10' is required and create two parking spaces in the street yard that are also within 4' of the lot line and seeks a variance from sections **8.04** Minimum Buildable Lot Area, **6.03 (C)** Side Yard Setback and **10.09(B)** Parking Setbacks (4 counts), of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through March 29, 2022.

Hila Lev said she is Sam Hammerman's wife. She said they are proposing to convert a property which is a mixed use property of mostly office space with 1 one-bedroom apartment and one hair salon which has a variance, into a ten-unit residential building.

Chairman Breault turned the hearing over to the Board.

Chairman Breault said historically this building has been commercial for many years. He said he thinks this is a good use for the property. It is a large structure and they aren't going to reposition the building although the lot is the lot. They are trying to satisfy the parking requirements on the site plan. They've got the layout. Chairman Breault asked Ms. Lev what the configuration of the apartments were, as far as one-bedrooms, two-bedrooms or three-bedrooms. Ms. Lev said the proposed is eight one-bedroom apartments, one studio apartment and one two-bedroom apartment. She said as far as parking goes, right now there is the variance that was granted in 2015 asking for relief from 16 parking spaces to 9 parking spaces, so there are currently 9 parking spaces and they are proposing to add a tenth parking spot and convert one parking spot into a handicap parking spot.

Guy Guerra asked if all units will have their own kitchens. Ms. Lev said yes, they will have their own kitchens and bathrooms. She said they plan on making them high end. They all have high ceilings and the building is very nice and in very good condition.

Chairman Breault turned the hearing over to the public and invited those in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Chairman Breault said he thinks this will be a good use for the property. He said at one time, he would venture to say it probably was all one big house that has had additions over the years as is evident by the way it is constructed. It has one unit of residential now and it is going to be all residential.

Greg Powers said he believes this case does satisfy the five criteria.

***Greg Powers made a motion to grant the following variance counts for case ZBA2022-040, 8.04 Minimum Buildable Lot Area, 6.03 (C) Side Yard Setback and 10.09(B) Parking Setbacks (4 counts), which was seconded by Michael Simoneau.***

Yeas: Breault, Simoneau, Guerra, Powers  
Nays: None

Upon a unanimous vote, the variance was granted.

22. **ZBA2022-041**  
**349 Orange Street, R-2 Zoning District, Ward 2**

James Smith, (Agent) proposes to construct a 7' x 25.3' one story addition with a 9.7' side yard setback and a rear dormer with a 5.6' setback where 10' is required in both instances and seeks a variance from section **6.03** Side Yard Setback, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through March 29, 2022.

Brian Jones with Allen and Major Associates said James Smith is the land surveyor that prepared the drawing and filed the application and he is here speaking on behalf of the homeowner, Amanda Eagan and it is for a proposed second floor addition, a rear dormer and also a first floor enclosed addition.

Mr. Jones said the ground floor enclosed addition is 9.7' from the side yard where 10' is required. It actually infills a portion of the rear of the building and then the proposed second floor addition is 5.6' whereas the existing house is 4.1' from the side yard setback on the one side. He said he could go through the five criteria if the Board would like, but he would emphasize item #5 that they filed under 5A, special conditions of the property in that it is existing non-conforming built very close to the side lot line, 4.1' and they are proposing some infill that is at 9.7' or 5.6', so no more non-conforming than what currently exists.

Chairman Breault turned the hearing over to the Board

Chairman Breault said with the exception of that addition infill between the porch and the bulkhead in the back, they are not encumbering any more space, they are just going up. Mr. Jones said that was right.

Guy Guerra said the dormer is just off the back of the house. Mr. Jones said that is correct. Chairman Breault said the fact that the house already exists with the limited setback on the

side yard, it is not making anything worse.

Chairman Breault turned the hearing over to the public and invited those in favor of this application to come forward.

**Stefan Philbrook** of 346 Orange Street said he abuts this property for this project and he doesn't think that any of these variances they are asking or requesting for are out of character for the neighborhood.

Chairman Breault invited those in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Chairman Breault said he thinks this is in character with the neighborhood. Greg Powers said he can definitely confirm that as he lives across the street.

***Guy Guerra made a motion to grant the following variance count for case ZBA2022-041, 6.03 Side Yard Setback, which was seconded by Michael Simoneau.***

Yeas: Breault, Simoneau, Guerra, Powers

Nays: None

Upon a unanimous vote, the variance was granted.

23. **ZBA2022-048**  
**10 Cody Street, R-1B Zoning District, Ward 6**

Brian Huckins, proposes to maintain a 12' x 16' shed 8' from the side lot line where 10' is required and seeks a variance from section **8.29(A)2** Accessory Structures and Uses, of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through March 30, 2022.

Brian Huckins appeared along with his wife, Mindy Huckins. He said they live at 10 Cody Street in Manchester and said they have a shed that is 2' too close to the boundary line of their neighbor. He said they have had estimates to move it 2' and that is well over \$1,500.00 to move the shed. He said aesthetically, it looks great where it is. He said it looks beautiful. He said their abutters are in favor of this as far as they are aware of. He said they feel it would be a big, big ask to move it 2'.

Chairman Breault turned the hearing over to the Board.

Chairman Breault said they have no rear yard so everything is a side yard unfortunately. The setbacks are what they are and that kind of creates a hardship for them on that lot, particularly with the configuration of their lot being an odd shape.

Chairman Breault turned the hearing over to the public and invited those in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.



Michael Simoneau said he sees the applicant just righting a wrong.

**Michael Simoneau made a motion to grant the following variance count for case ZBA2022-048, 8.29(A)2 Accessory Structures and Uses, which was seconded by Guy Guerra.**

Yeas: Breault, Simoneau, Guerra, Powers

Nays: None

Upon a unanimous vote, the variance was granted.

24. **ZBA2022-039**

**Candia Road, Map 471, Lot 8, R-1B Zoning District, Ward 6**

John Tirrell, (Agent) proposes to construct a 24' x 40' public utility building with an 18' front yard setback and side yard setbacks of 1.4' and 7.9' where 20' is required in all instances, on a lot 3,988 SF in size where 15,000 SF is required, with lot frontage and width of 79.79' where 150' is required, with an 8' x 8' electrical building and generator in the front yard, and with a 6' high fence in the street and front yards and seeks a special exception from section **5.10(E)12** Essential Public Services, Utilities and Appurtenances and seeks a variance from sections **6.01** Minimum Buildable Lot Area, **6.02** Minimum Lot Frontage and Width (2 counts), **6.03(A)** Front Yard Setback, **6.03(C)** Side Yard Setback (2 counts), **8.27(B)** Fences Walls and **8.29(A)1** Accessory Structures and Uses (2 counts), of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through April 1, 2022.

John Tirrell said he is a principal engineer at CHI Engineering and he is representing Liberty Utilities in this case. He said a little explanation is in order. He said the lot to the north is owned by Tenneco and currently, Liberty Utility has equipment in that existing building which has been there since the 1950's. He said it is time to upgrade Liberty Utilities equipment and they owned a lot to the south which is the lot in question and is approximately 4,000 SF. They want to relocate their new equipment onto this parcel that has no buildings on it now. They want a new utility building to house their upgraded equipment. As far as the variance goes, this is a betterment. The equipment that is there is old. It does produce noise in the winter when there is a high gas flow. This is an opportunity to put in quieter equipment in a heavily insulated building to reduce the noise both for the property line and also their employees.

Chairman Breault turned the hearing over to the Board.

Chairman Breault said this is part of the utility upgrade and he thinks it is required. He said they have a limited amount of space that is going to improve what is there. He said he has heard that noise sitting at the lights and he often thought it had a leak with the hissing, but knowing that a major pipeline goes right through is probably not the case. He said he didn't see an issue with this. He said he didn't think it was going to impact anybody because it is an area of Candia Road that has nothing on either side and then the highway on one side and the connector road on the other.

Chairman Breault turned the hearing over to the public and invited those in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Chairman Breault said he thinks this is a necessity more than anything else.

***Guy Guerra made a motion to grant the following special exception count for case ZBA2022-039, 5.10(E)12 Essential Public Services, Utilities and Appurtenances, which was seconded by Greg Powers.***

Yeas: Breault, Simoneau, Guerra, Powers

Nays: None

Upon a unanimous vote, the special exception was granted.

***Guy Guerra made a motion to grant the following variance counts for case ZBA2022-039, 6.01 Minimum Buildable Lot Area, 6.02 Minimum Lot Frontage and Width (2 counts), 6.03(A) Front Yard Setback, 6.03(C) Side Yard Setback (2 counts), 8.27(B) Fences Walls and 8.29(A)1 Accessory Structures and Uses (2 counts), which was seconded by Greg Powers.***

Yeas: Breault, Simoneau, Guerra, Powers

Nays: None

Upon a unanimous vote, the variance was granted.

25. **ZBA2022-049**  
**33 Fairbanks Street, R-1B Zoning District, Ward 10**

Jean Faiella, proposes to maintain a 22' x 22' carport with a 4' side yard setback where 10' is required with more than one parking space in the front yard setback and parking spaces within 4' of the building and 4' from the lot line and seeks a variance from sections **6.03(C)** Side Yard Setback, **10.09(B)** Parking Setbacks (2 counts) and **10.09(B)2** Parking Setbacks of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through April 1, 2022.

Mohammed Mobeen said he was here to help his family friend Jean Faiella. Jean Faiella said she owns the house with her daughter, Tiffany and her husband. Mr. Mobeen said maintaining this carport will not change the footprint of the building. This is an existing carport and Jean and her family did not know that they would need a variance to maintain that carport. They hired a contractor and they gave the money to the contractor and it was their presumption that the contractor would take care of whatever was needed to be done. He said apparently that contractor did not contact the Building Department that a variance was needed and did not acquire a permit which resulted in being here in today's meeting. What Jean is trying to do over there will not change the footprint or the shape of the neighborhood properties. This will not decrease any value of the neighboring properties. He said Jean is trying to actually improve the looks of her house. This will improve the look of her house and

will match to the other houses as well as increase the value of the house. Not granting her this variance will most likely be a real hardship because they have already given the money to the contractor and it will not be possible to get that money back at this point. Jean went to some of the surrounding neighbors there to see if anybody had any objection and they got quite a few letters from the neighbors that they are supporting this request.

Chairman Breault turned the hearing over to the Board.

Chairman Breault said he had letters from five abutters who are in agreement with this.

Chairman Breault said he took a look at this and he doesn't think it is going to hurt the character of the neighborhood and if anything, it will add value. The ironic thing about this is that carport was granted relief via variance and unbeknownst to these owners, it wasn't built per the variance. Now they are closer to the property line than they realized what it was granted for in 1973. Now they have a structure that they need a variance for again. It sounds like they had an unscrupulous contractor start this project and now they are stuck with something that wasn't permitted that they need to permit and continue to build. The hardship obviously, is they find themselves in a bind and that structure has been there for an awful long time. He doesn't think this is something the Board wants to make them change.

Vice Chairman Simoneau said he had a quick question. He asked Ms. Faiella when she acquired the property. She said about thirteen years ago. Vice Chairman Simoneau asked why it was in a different ownership. Chairman Breault said it says Tiffany Corder and asked Ms. Faiella if that was her daughter. Ms. Faiella said Tiffany is her daughter. She said originally, Tiffany and her boyfriend Michael owned the house and the agreement was that she would live with them and she did and then they broke up. She said she and Tiffany loved the house so they bought it. They refinanced and got the quick claim deed there and they have been living there. Tiffany is now married and has two children and they love it there. Vice Chairman Simoneau said he just didn't know who Tiffany was. Chairman Breault said Ms. Faiella said she owned the home with her daughter.

Michael Landry said he had a question. He said this is not really related to the relief requested, but he asked Ms. Faiella if it was her intent to expand that enclosed area within the carport. Ms. Faiella said within the carport. She said there was a porch inside the carport and they are going to make the porch a little bigger so they have a nice big family living room. Mr. Landry said he just wanted to clarify that. He said he thought he understood that, but it doesn't create any new counts. Ms. Faiella said it won't look any different outside. It is pretty much going to be the same. Mr. Landry asked if they were going to park in the carport after the do that. Ms. Faiella said they can still park in the carport.

Chairman Breault addressed Ms. Faiella and said it provides them a little expanse on their house and takes that means of egress into consideration.

Chairman Breault turned the hearing over to the public and invited those in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Greg Powers said he thinks this case meets the five criteria.

***Greg Powers made a motion to grant the following variance counts for case ZBA2022-049, 6.03(C) Side Yard Setback, 10.09(B) Parking Setbacks (2 counts) and 10.09(B)2 Parking Setbacks, which was seconded by Michael Simoneau.***

Yeas: Breault, Simoneau, Guerra, Powers  
Nays: None

Upon a unanimous vote, the variance was granted.

26. **ZBA2022-042**  
**90 Union Street, R-3 Zoning District, Ward 9**

Joseph Wichert, (Agent), proposes to redevelop the property which is currently improved with 17' x 25' one story take-out restaurant, with a proposed 36' x 26' two story building with a take-out restaurant on the first floor and a dwelling unit on the second floor on a lot with 3,908 SF where 10,000 is required, with lot frontage and width of 50' where 100' is required, with a front setback of 7', street yard setback of 7.5' where 10' each is required, with three parking spaces in the street yard setback where one is allowed, where the parking spaces are required to back out onto the public way, and where the exhaust system for the commercial food preparation or processing is within the 50' limited activity buffer and seeks a variance from sections **5.10(A)8** Dwellings in Upper stories of Building with Commercial First Floor, **6.01** Minimum Buildable Lot Area, **6.02** Minimum Lot Frontage and Width (2 counts), **6.03(A)** Front Yard Setback, **6.03(A)** Street Yard Setback, **10.09(B)** Parking Setbacks, **10.07(D)** Parking Maneuvering, **10.08(C)** Driveways Width and **6.08(B)** Screening Buffers of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through April 4, 2022.

Joseph Wichert said with him this evening is Suzanne Roy who is one of the members of the Skybox Northeast, LLC who is the owner of the property. Mr. Wichert said a brief overview the lot is grandfathered and is a 3,900 SF lot, roughly 50' x 77' and sits in the northwest corner of Union Street and Plummer Street. He said for the thirty plus years that he can remember, there has been a sandwich shop there and he is not quite sure what was there prior to. In 2019, the applicants purchased the property and made some upgrades to the building. They cleared out some vegetation and got rid of some abandoned vehicles. In January of 2020 there was a new business owner that came in and now, even though he still kinds of calls it Willy B's, Union Street Take-out is the entity that runs the operation and they are doing well. The problem is the size of the building. As Mr. Landry had mentioned, he thinks it is 17' x 24' and is about 405 SF. He said it is impractical to sort of add on to that so they looked at what their options were and it was decided the best way to approach it would be to put a new building up.

Mr. Wichert said a lot of the counts that are cited in the Zoning Review are due to the configuration of the lot, which obviously, they can't change. What they proposed is a 26' x 30' building. There is a 6' overhang on the second floor which is going to have an apartment on it. The second floor was thought of as a way to help offset some of the cost to the reconstruction of the building. They have submitted some architectural plans to the Board so they can see the appearance of the building and he thinks it is certainly clear that the new

building would be an improvement in the area. Due to the size of the lot and the fact that it is in the R-3 zone and there is an existing building there, there is very little that they could do by right that would be compliant. Even if they were to try to put a two-family dwelling on there, which would be a similar size building, they would still be in front of the Board for a multitude of zoning counts.

Mr. Wichert said the business, like he mentioned, has been successful and they are trying to be good neighbors. The owners are trying to be good neighbors. They just believe that rather than trying to do a piece mail addition onto the existing building, the removal of the existing building and the construction of the new one would better suit both the landowner and the business owner and they think in some way it would also work better for the neighborhood.

Chairman Breault turned the hearing over to the Board.

Chairman Breault said Willie B's has been there for probably close to thirty years.

Michael Landry asked if they had an operator for the restaurant or is it going to be the same one that is there now. Mr. Wichert said that is the intent for Union Street takeout. He said the problem they mentioned in the application is that there is just no space for them to operate in. They have limited storage, limited freezer space and this would resolve that. It is a takeout restaurant and they aren't going to generate any more business, per se, by making this building larger. They are doing well and hopefully this will let them continue to do well. Mr. Landry said unfortunately, we didn't think about signage or maybe the Board will see them again. Mr. Wichert said he thinks the intent was that they were going to try to stay with what they had, but depending on that possibility, maybe. Mr. Landry said the only sign that sticks out is the Willy B sign and honk if you need service, which he loves. Suzanne Roy said they utilize that sign. Mr. Landry said to the extent that we have an excess of signs, like cigarette signs or beer signs and those things, we just didn't review it for that purpose but we will look at it. Chairman Breault said there was something there before Willy B's. It was a sandwich shop and the guy sold a lot of cigarettes and stuff like that.

Chairman Breault turned the hearing over to the public and invited those in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Chairman Breault said it is a small lot in sort of a business area. You've got the recycling center across the street and Keller Products just down the street so it is all kind of a business network.

Michael Landry said there is a letter and he would read it into record.

***I work at Keller on Union Street and have lunch at Union Street take out. The people have cleaned up the area, cut down the trees and homeless people no longer camp out there. I live on Lake Avenue in Manchester and I am in favor of the restaurant being rebuilt and know it will help the neighborhood look better.***

***Thank you,  
Steve White***

Mr. Landry said that was all he had.

Vice Chairman Michael Simoneau said this meets the five criteria.

*Michael Simoneau made a motion to grant the following variance counts for case ZBA2022-042, 5.10(A) 8 Dwellings in Upper stories of Building with Commercial First Floor, 6.01 Minimum Buildable Lot Area, 6.02 Minimum Lot Frontage and Width (2 counts), 6.03(A) Front Yard Setback, 6.03(A) Street Yard Setback, 10.09(B) Parking Setbacks, 10.07(D) Parking Maneuvering, 10.08(C) Driveways Width and 6.08(B) Screening Buffers, which was seconded by Guy Guerra.*

Yeas: Breault, Simoneau, Guerra, Powers

Nays: None

Upon a unanimous vote, the variance was granted.

### **III. BUSINESS MEETING:**

#### **1. ADMINISTRATIVE MATTERS:**

##### **1. Review and approval of the ZBA Minutes of February 10, 2022 and March 10, 2022**

*The review and approval of the ZBA Minutes of February 10, 2022 and March 10, 2022 were postponed until the May 12, 2022 ZBA Hearing.*

*Guy Guerra made a motion to adjourn the ZBA Hearing of April 14, 2022, which was seconded by Greg Powers.*

Yeas: Breault, Simoneau, Guerra, Powers

Nays: None

Upon a unanimous vote, the ZBA Meeting of April 14, 2022 was adjourned.

##### **2. Any other business items from the ZBA staff or Board Members.**

*No new business was brought up.*

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| <p>Full text of the agenda items is on file for review in the Planning &amp; Community Development Department.<br/>The order of the agenda is subject to change on the call of the Chairman.</p> |
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